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FLOOR DEBATE

January 19, 2006 LB 57, 454, 548, 764, 765, 874, 875

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our chaplain today is Pastor Jeremy Jech, from Cozad Christian Church, Cozad, Nebraska; and happens to be my district, Senator Cudaback, District 36. Pastor, please.

PASTOR JECH: (Prayer offered.)

SENATOR CUDABACK: Thank you, Pastor, for being with us this morning. We appreciate you being here. I call the eleventh day of the Ninety-Ninth Legislature, Second Session, to order. Senators, please check in. Record please, Mr. Clerk.

CLERK: I have a quorum present, Mr. President.

SENATOR CUDABACK: Are there any corrections for the Journal?

CLERK: (Read corrections, Legislative Journal page 405.)
That's all that I had, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Any messages, reports, or announcements?

CLERK: I have a Reference report referring LB 1107-1157, as well as constitutional amendments LR 272CA, LR 273CA, and LR 274CA. Your Committee on Banking, Commerce and Insurance reports LB 875 to General File with amendments; Agriculture reports LB 874 to General File; those reports signed by their respective Chairs. And Enrollment and Review reports LB 764, LB 765, LB 454, and LB 57 to Select File. That's all that I had, Mr. President. (Legislative Journal pages 405-411.)

SENATOR CUDABACK: Thank you, Mr. Clerk. (Doctor of the day introduced.) Next agenda item, Select File, LB 548. Mr. Clerk, please.

CLERK: Mr. President, LB 548 on Select File, briefly discussed yesterday. Senator Schrock has pending AM1864 as an amendment to the bill, Mr. President. (Legislative Journal page 295.)

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SENATOR CUDABACK: We will now go with the amendment of Senator Schrock's. Senator Schrock, you're recognized.

SENATOR SCHROCK: Mr. President, reviewing what we did yesterday, the amendment, AM1864, becomes the bill. And essentially, we have taken Senator Jensen's bill and totally changed this bill. And we creeted into the...a public power bill that allows public power entities the option to finance mandated projects and to have the cost of those mandated projects to become itemized on the bill, and in so doing so, they can get a cheaper bond rate, which would help the consumers of this state. This was recommended to them by bond counsel out of New York, and that, of course, is where a lot of bonds are obtained by our power entities, and they can get a better rating. And probably some of our power plants, the reason our power industry is interested, some of our power plants are going to need to be retrofitted, and it might be to become in compliance with EPA mandates. And so a considerable amount of money could be spent on these mandated projects, and it allows them to get a better bond rating, cheaper interest. But this bill would mandate that they itemize those so that each customer would be...it would itemized on their bill. They can also include the cost of implementing that bill. Any cost associated with the mendeted project could be included in that itemized line. It's a bill that the Natural Resources Committee passed out of committee last year unanimously. It's one of those things that we deal with, with public power in this state. Unless we expressly say they can do it, there's always some question. And so we felt this bill was a good way to go. It's a good way to make it clear to our power industries what we expect of them and how they can proceed. I hope that's enough explanation. I don't think it's a difficult bill. I don't think it's an unreasonable bill. So with that, I would encourage your consideration of this. I am open to discussion or any questions. Thank you.

SENATOR CUDABACK: Thank you, Senator Schrock. Mr. Clerk, please, motion on the desk.

CLERK: Mr. President, Senator Chambers would move to amend this

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amendment by striking Section 1. (FA352, Legislative Journal page 411.)

SENATOR CUDABACK: Senator Chambers, you're recognized to open on your amendment.

SENATOR CHAMBERS: Mr. President, members of the Legislature, to give advice to my colleagues, I will quote--I'm not going to try to sing it--from a song I learned as a very small lad: "Ay, ay, ay, ay, canta y no llores, porque cantando se alegran, cielito lindo, los corazones." Anyway, that says sing and dance; don't cry. I don't want anybody to cry today. I am exacting the "Ernie" tax, but I come to you and Senator Schrock and those who have worked on this bill, including myself, not as the hooded executioner whose intent is to chop the head off this bill. I am not coming to exact a death tax on this bill, just a bit of time. And the tiny bit of time that I'm going to take should not distress anybody. The solar system is considered to be 4,500,000,000 years old, 4,500,000,000 years old. A lifetime is as nothing compared to that. The hundreds of thousands of years, perhaps, give or take a few, that the creatures which eventually evolved into human beings were on the face of the earth is as nothing compared to the age of the solar system. The universe itself is far older than the solar system. So if things are viewed, as Einstein suggested, relatively speaking, it is easier to endure those things that are unpleasant. I am not going to take more than eight hours on this bill. I am not going to take even eight hours on this bill. However, I could be telling the truth with that statement if I would consume, with the help of some of my colleagues, or they may choose to set it out...sit it out and see how much stamina I have, I could consume 7 hours, 59 minutes, 59.5 seconds, and still be telling the truth. But still it would be a lesser period of time than eight hours. This is the type of bill, however, where I do think some clarification and explanation are warranted. Rather than proceed with a request for a division of the question, I am going to take a different approach, because the bill is one entity, and there is no logical or rational way to divide out any part of it without damaging the whole, w-h-o-l-e. So what I will do, since time is what I am after, is offer motions to strike various sections from the bill. That will give me a

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chance not only to take time, but to ask questions, to listen to the discussion, and determine whether or not the bill in its present form is acceptable from my point of view. Senator Schrock and the others who favor this bill have shown themselves willing to work with anybody who has an interest, make accommodations where possible, and arrive at a conclusion which is acceptable to a majority of the senators, while producing a bill that accomplishes a needed effect. When it comes to a bill that relates to a public utility, and the primary concern, in my view, should be what is best for the citizens, we should look not only at the desire of that utility, but how it will impact those ratepayers. With that in mind, I want to ask Senator Schrock a question.

SENATOR CUDABACK: Senator Schrock, will you yield?

SENATOR SCHROCK: Yes, I will, Senator Chambers.

SENATOR CHAMBERS: Senator Schrock, this may seem not to bear directly on the bill, but in a sense it does, because we're talking about how much money ratepayers are going to pay for what they receive. I have read in the paper that OPPD--I'm almost sure it's OPPD rather than MUD--is planning to have yearly increases in rates for the next three years. Had you read such an article?

SENATOR SCHROCK: I think I read something on LES this morning. There was some protest from a business community about their rate increases. But I think that's going to be very typical across the state. You're going to see increases in our electric rates. And if I might continue? And I've got my light pressed,...

SENATOR CHAMBERS: Okay.

SENATOR SCHROCK: ...so if you want some of my time, you can have it. But if I might continue, the transportation surcharge on railroads has been quite extensive, because the railroads pull their trains with diesel fuel, and you know what the price of diesel fuel has done in the last few weeks.

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SENATOR CHAMBERS: Yes.

SENATOR SCHROCK: And so the price of delivered coal is higher. One thing I haven't asked the power companies, if they're paying more for the coal at the mine. I do know the transportation cost makes the price of this coal much higher. And that has some advantages. Senator Preister would like the fact that that might encourage more wind development, and it does make our nuclear plants seem more efficient. And so we have a good situation in the state. We have a fairly good mix of power sources--nuclear, coal, we've got some natural gas, and some oil. But...and we're getting a little wind, which helps.

SENATOR CHAMBERS: Now,...oh, excuse me. If OPPD has projected rate increases for the next three years, that would play into what this bill ultimately is designed to do, in terms of what it will cost the ratepayers. Is that true or false?

SENATOR SCHROCK: I think it would be true to the extent...if they could...if some of those increases would be because of a mandated project. And...but the rate increases that are projected now, I would assume, are not part of any new projects or mandated projects. But there are contemplations that, because of regulations, that they will have to retrofit some of their power plants. And if that's considered because of environmental issues that...then they could get a better bond rating on that expense.

SENATOR CHAMBERS: But even though there may be a statement on the bill that lets people know that a cost is for a mandated whatever-it-is, the total amount paid by the ratepayer is going to increase, based on this bill and the addition of these rate increases that have nothing to do with the bill. Would that be true or false?

SENATOR SCHROCK: I think it's true from the standpoint the rates will increase. I don't think they'll increase because of the bill. I think it's possible that the rate increases could be a little less down the road because of the bill, though.

SENATOR CHAMBERS: If the bill is not passed, what will

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happen,...

SENATOR SCHROCK: I don't think anything...

SENATOR CHAMBERS: ...other than the bond amount?

SENATOR SCHROCK: I don't think anything earth-shattering. But when they do get their bonded indebtedness for mandated projects, their bond rating will not be as high and they'll pay a little more interest.

SENATOR CHAMBERS: But those projects would still go forward. Is that true?

SENATOR SCHROCK: I would assume they would. And if you're dealing with the Environmental Protection Agency, at some point in time you'd better update so that you're a clean source of power.

SENATOR CHAMBERS: And your argument is that there might be a set-off. If the bond reting...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...is higher, consequently, the payments on the debt would be lower, and that might balance out any increase that could result in rates as a result of this mandated project.

SENATOR SCHROCK: I think you've figured it out very well, Senator Chambers.

SENATOR CHAMBERS: No, I didn't figure it out; I listened well to what you said.

SENATOR SCHROCK: All right.

SENATOR CHAMBERS: You have explained this bill well. Thank you, Senator Schrock. That's all I'll ask you right now. But I do believe, in spite of the fact that I'm wanting to take time, this is a bill that requires some analysis and some explanation. Above all, I want there to be a clear legislative record of what

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this bill is doing, and what we are alleging will be the result as far as the ratepayers are concerned. So when I make these motions to strike,...

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR CUDABACK: You've heard the opening on FA352 to AM1864. Open for discussion on that motion. Senator Chambers, followed by Senators Bourne and Schrock.

SENATOR CHAMBERS: What I'm going to do is let others speak. Can I turn my light off and turn it on behind theirs?

SENATOR CUDABACK: You may.

SENATOR CHAMBERS: Okay.

SENATOR CUDABACK: Senator Bourne, you're recognized.

SENATOR BOURNE: Thank you, Mr. President, members. Good morning. I always say, my first talk when we meet or reconvene in the Legislature, it's like deja vu all over again, and that holds true again this morning. If Senator Chambers' goal on this bill is to take some time, I'm going to help him, because I can...I'm looking at Senator Chambers, and he's getting gray in the beard, and short in the tooth, and I can tell he's tiring. And it's only the eleventh day and I can sense he's getting tired and he's not going to be able to keep up this frantic pace for much longer. So if he's...if his goal is to use a little time, then I'm going to help him use a little time on this bill. I rise in opposition to his indefinitely postpone amendment, but I rise in support of the Schrock amendment and the underlying bill. This bill is an example of the intelligent, clever, forward-thinking, progressive ideas that are unique to Omaha Public Power District. This district has a history of keeping rate increases to a minimum, and I think it is one of the jewels in Nebraska. We recruit businesses here to Nebraska, and one of the recruiting tools we use is the low cost of power to these entities that might locate here. I'm not sure of the exact

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numbers, but I think we are second- or third-lowest in the entire country, which is amazing given that, you know, it seems to me that hydropower would be the lowest, because they use rivers to generate it rather than coal or nuclear material. So the history that OPPD has in terms of minimal rate increases and things of that...the outstanding service they provide to the public is, I think, unparalleled, probably, across the country. With that, I wanted to kind of expand a little bit upon Senator Schrock, kind of explain what this bill, or the amendment, did, give you a little historical perspective. Last year, if you recall, the rules were suspended on Senator Jensen's bill, and the amendment, the previous amendment, was pending. Now, as I understand it, Senator Schrock has substituted AM1864 for the previous amendment, and that's largely because of the work done by OPPD over the summer, bringing the various interested parties. As I understand it, Senator Beutler had a concern, and Senator Schrock had some issues, and that...those issues have been resolved from those people who had objections in the beginning. But let me just kind of expand on what the amendment does. The federal government, as the state government does from time to time, puts mandates on various entities. And the federal government, as it relates to power generation, has said that some plants must retrofit so that they can comply with clean air standards. And similar to what we do when we tell the counties or the cities or various communities what they have to do, not very often do we provide money to help those communities, counties, entities comply with that mandate. So the federal government has said to these power industries, these power plants across the country, you have to retrofit certain plants to comply with clean air standards, but, by the way, you're not getting any money to help carry out those standards. So what MUD...or, excuse me, what OPPD has done in this situation, has cleverly designed a package where if it is a mandated project, they will put a separate charge on a customer's bill, and it will be a dedicated stream of income that will go to retire the bonds that were let to fund these mandated projects. So what they've done, instead of having a AAA bond rating, they go to a...excuse me, a AA bond rating, they go to a AAA bond rating. And people familiar with finance know that the higher the bond rating, the less interest that is paid on those bonds, because they're an absolute guarantee.

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When customers buy them, the bonds, they know that they're...

SENATOR CUDABACK: One minute.

SENATOR BOURNE: ...absolutely going to get their money back, so in return for that guarantee, they accept a lower rate of return, a lower rate of interest. So instead of paying X percent on these bonds, OPPD will pay, like, X minus 1 percent. And that, in return, will lower the service...the actual ultimate cost to the customer, over the life of these bonds. So when Senator Chambers asked Senator Schrock what would happen if the bill didn't pass, well, what would happen is that customers of Omaha Public Power District would ultimately pay more to finance these projects that were mandated by the federal government. So again, I rise in opposition of Senator Chambers' amendment. I'm more than willing to help him take some time on this, but I do think that the bill ultimately needs to go forward, and I think Senator Chambers even recognizes that. So again, I think this is an example of how progressive OPPD is. They're always looking out for the customer. They have...

SENATOR CUDABACK: Time, Senator Bourne.

SENATOR BOURNE: ...a history of minimal rate increases, and this bill carries forward that history.

SENATOR CUDABACK: Thank you, Senator Bourne. Senator Schrock.

SENATOR SCHROCK: Senator Chambers, if I may ask you a question? You want to strike Section 1 of the bill with this amendment? Is that...?

SENATOR CHAMBERS: That's what the amendment would suggest.

SENATOR SCHROCK: So that would just take the name off of it. So we'd still have a bill, but the bill wouldn't have a name.

SENATOR CHAMBERS: Right.

SENATOR SCHROCK: Okay. I'm going to oppose your amendment,

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Senator Chambers. But let me tell you, I'm an individual that enjoys music, so I do like when you sing songs to us. And that "Ay, ay, ay, ay," I will say this to your amendment: Nay, nay, nay, nay. When I come to Lincoln, I listen to the radio. And I don't listen to talk shows. I don't even care for Rush Limbaugh. You might...he's too antigovernment for me. That's too extreme. I know people that listen to him, and he's entertaining, I guess. If I ride with Jim Cudaback, he always has some late-night talk show host on, and that gets kind of crazy, too. I'd rather listen to music. If you're with Jim Cudaback and you've got a big band tape, he'd like that. But I'm more of the sixties and seventies. And I listen to a farm radio station out there, so I hear country music. So I will say again, I like the song, but I think I'd change the words to "Nay, nay, nay, nay." If you'd like the rest of my time, you may have it.

SENATOR CUDABACK: Senator Chambers, about one minute has been gone.

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Schrock. My "Ay, ay, ay" was in the nature of an exclamation of pleasure, rather than "aye" in the sense of "yes." But your "nay" would be in the sense of n-a-y, "no." But because you were speaking in opposition to me, I'm going to spell it n-e-i-g-h, because I think you're horsing around. Members of the Legislature, when Senator Bourne stood up, he is correct, with the exception of one thing, when he described me. He said I'm getting short in the tooth. No, when you get older you get long in the tooth. I enjoy, when we're speaking on the floor, using opportunities to impart bits of information that may be worthless, meaningless as far as people's ultimate goal in life. But many times, knowledge for knowledge's sake is what some people will quest after, and the philosophers will say that is the highest type of knowledge, the greatest motivation to procure knowledge. But you would expect philosophers to say that, because it would give a lot of credit and weight to what it is they do, since what they come up with generally has no practical application in the world at all. The bit of useless information: "Long in the tooth" comes from the fact that as a person gets older, the gums will recede, and more of the tooth

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is exposed. So the tooth doesn't actually get longer; it simply appears so because the gums are receding, or, if you'll allow me to be loose with language, they're getting shorter. So Senator Bourne should have said "long in the tooth," unless he was going to contradict what he said earlier about my advancing age, that although chronologically I appear to be quite old, if you really put all of the factors together that go into making me what I am, I'm growing short in the tooth, which means growing younger, more youthful, stronger, more stamina. And I will issue a challenge here, based on what has happened in the past. After 22 days, my colleagues are the ones who will be over there in the Senators' Lounge,...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...exhausted. They'll get tired from resting. But you will find me on this floor, on my feet, doing my work to earn that \$12,000 a year. I always remind people when they want to try to give me credit for the things that I do, that I'm an employee and I get paid for what I do. I don't get paid well, but I get paid. And this is why, when I've assisted people, whether it's with a legal issue or anything else, they cannot offer me anything by way of compensation or appreciation, because I am paid to do what I do. I view my job differently from others, and feel there is more entailed in my responsibility than others may feel is entailed in theirs. But that's why we're individuals. That's what provides diversity. But I'm going to go into some specific things on this bill...

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: ...as we proceed. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers and Senator Schrock. (Visitors introduced.) On with discussion, Senator Chambers.

SENATOR CHAMBERS: Thank you. Mr. President, since this is on my time, I would like to ask Senator Schrock some questions about some language in the bill. And this is strictly for information in the record, Senator Schrock. I will be on page 1

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of your amendment, starting in line 17, where we're talking about costs related to the issuing and servicing of mandated project bonds.

SENATOR CUDABACK: Senator Schrock.

SENATOR SCHROCK: I'll answer...

SENATOR CHAMBERS: Okay.

SENATOR SCHROCK: ...to the best of my ability.

SENATOR CHAMBERS: Now, before I ask you the question, is the issuance of bonds the only way that these mandated projects can be paid for?

SENATOR SCHROCK: I would assume they could use it from existing streams of revenue if they have excesses.

SENATOR CHAMBERS: But if they did not have sufficient revenue coming in currently, and they were not going to issue these bonds, the only way they could get the money would be to raise rates? Or is there some other way that you know of?

SENATOR SCHROCK: I'm not sure, Senator Chambers, if they have a line of credit at banks where they could borrow instead of getting the bonds purchased. I'm not sure about that. But the logical way would appear to be the bonds.

SENATOR CHAMBERS: If they had a line of credit, we know that credit is not extended free; there is a cost.

SENATOR SCHROCK: It takes collateral.

SENATOR CHAMBERS: Would there be an interest payment involved also, when that line of credit is tapped?

SENATOR SCHROCK: Yes, it is. And the less collateral you have, or the less income-making, or the...the less income-producing capacity you have would make the line of that credit higher, so you'd have to pay higher interest rates.

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SENATOR CHAMBERS: So whether we're talking about a line of credit or raising fees for...raising the rates, the bond amount...the issuance of the bonds would be the most economic, in the sense of inexpensive, method of raising the money to pay for these mandated projects.

SENATOR SCHROCK: And that's correct. And, Senator Chambers, the reason they can get good rates on this is because they would have a dedicated source of funding, and that funding would have the highest...that dedicated source of funding, of revenue, would have the highest priority. In other words, another bondholder or another person who has money loaned to the power district could not come before that dedicated stream of revenue for those bonds. And so that bond would have a dedicated...and it would be the highest priority of the...

SENATOR CHAMBERS: And you kind of jumped ahead of what...I was going to go step by step. But in line 23 are the three words "rating agency fees." Would Moody's be one of these rating agencies?

SENATOR SCHROCK: I think so, Senator Chambers. There again, I don't deal with this kind of financing on a personal basis, obviously. Most of us don't.

SENATOR CHAMBERS: Well, would you step on your feet? I'm going to ask Senator Wehrbein a question or two to help me out, and then I'm going to proceed with you.

SENATOR CUDABACK: Senator Wehrbein, would you yield?

SENATOR WEHRBEIN: Yes.

SENATOR CHAMBERS: Senator Wehrbein, you know something about investing, don't you?

SENATOR WEHRBEIN: Some.

SENATOR CHAMBERS: Moody's is a bond rating agency. Is that correct?

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SENATOR WEHRBEIN: Yes.

SENATOR CHAMBERS: I'm going to give you the middle name and the last name of another agency, and see if you can give me the first name, because I can't think of it: & Poor's.

SENATOR WEHRBEIN: Standard & Poor's?

SENATOR CHAMBERS: Thank you. Now, what is a third well-known rating agency, if you can think of it?

SENATOR WEHRBEIN: Moody's?

SENATOR CHAMBERS: No, I gave Moody's.

SENATOR WEHRBEIN: You gave me Moody's. Okay.

SENATOR CHAMBERS: And Standard & Poor's only counts as one.

SENATOR WEHRBEIN: (Laugh) Okay. I can't think of the third one offhand.

SENATOR CHAMBERS: Thank you. Members of the Legislature, I have often said on the floor that women constitute a pool...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...of talent, information, and ability that often is ignored. I'm going to see if my semi-seatmate, Senator McDonald, might be willing to help me.

SENATOR CUDABACK: Senator McDonald.

SENATOR CHAMBERS: Senator McDoneld, can you think of a third rating agency?

SENATOR McDONALD: Could it be A.M. Best?

SENATOR CHAMBERS: Senator Wehrbain, you're shaking your head. Do you disagree?

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SENATOR WEHRBEIN: Well, I thought they ranked insurance companies.

SENATOR CHAMBERS: So then we have a little dispute here?

SENATOR WEHRBEIN: There may be another one, Dun & Bradstreet. I don't know whether they do bond rating, too.

SENATOR CHAMBERS: Okey. So we can do a little research here and find out what these rating agencies are that we're talking about by name. But we've at least established the type of operation they are and what it is they do. Thank you. Now I can go back to Senator Schrock, because he may be able to answer these other questions for me. Senator Schrock, when we see in line 19 the term "legal fees"...

SENATOR CUDABACK: I'm sorry, your time is up, Senator. On with discussion. Senator Kremer.

SENATOR KREMER: Thank you, Mr. President, members of the body. I will speak only once on this, but I did have a privilege to hear of this proposal before it was introduced, and also was on the committee that heard testimony. There was no opposition. And I think that we should do anything we can to lower the cost of our utilities, or whatever it might be. Senator Bourne did explain it very well, as well as Senator Schrock. It only applies if there's a mandate. And I would assume that if the cost of whatever that mandate would be could be paid out of reserves or out of anything else other than bonds, that the utilities company would definitely do that. I think anything that we could do to make their costs as low as possible benefits all of us as the consumers. Let's see, look at my notes here. I remember...I think maybe the only concern would be that it would probably be a dedicated amount on the bill. And sometimes when...I remember when the telephone companies had to itemize every cost in there, then people kind of got all upset because they thought it was new costs. But in the long run, it's a lesser cost. If they can get bonds at a lower rate, it's going to be lower rates to the customer. So I think it can be nothing but positive. The bill is very clear in defining what a mandate

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is. The mandate is going to have to be paid. They're going to have to do whatever the work is. No matter whether they can use lower-rate bonds or higher-rate bonds, or however they pay for it, it's going to have to be paid. If they do not do it this way, then I assume that the cost would really just be hidden in the bill. No one would know why their bill went up. But when it shows a dedicated amount on that bill that goes to retire the bonds, then sometimes people become concerned. But I still think it's a good bill. I will not support the amendment, but I do support the underlying bill. With that, I would like to do my part in helping to wear down Senator Chambers, and he can have the balance of my time if he would like.

SENATOR CUDABACK: Thank you, Senator. Senator Chambers.

SENATOR CHAMBERS: Thank you, Senator Kremer, and thank you, Mr. President. Senator Schrock, here's what I want to ask you about. In line 19 are the words "legal fees." Do you see them?

SENATOR SCHROCK: I do, Senator Chambers.

SENATOR CHAMBERS: Then when we go to the end of the line, we have the two words "bond counsel," and then on the next line, "fees." So there are legal fees specified, and bond counsel fees. Bond counsel fees are not considered legal fees? Or, let me ask it like this. Obviously, whoever drafted this feels that there is a difference. What would legal fees cover while excluding bond counsel fees?

SENATOR SCHROCK: Senator Chambers, I can only presume that there's going to be lawyers involved, and there's going to be financial people involved. The lawyers, I suppose, would be the legal fees, and the bond counsel fees would be the company or the financial firm that has the individual, who is probably an attorney, but a financial expert at least, who would advise that company on the rating of the loan, so.

SENATOR CHAMBERS: But the term "legal fees" could encompass bond counsel, since when I see the word c-o-u-n-s-e-l, I think it refers to a lawyer.

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SENATOR SCHROCK: The committee counsel has affirmed what you said. You are correct.

SENATOR CHAMBERS: Then I'd like to ask Senator Beutler a question, because he's a lawyer and knows everything.
(Laughter)

SENATOR CUDABACK: Senator Beutler, would you yield?

SENATOR CHAMBERS: Senator...

SENATOR BEUTLER: Now there's a perfect set up for failure.

SENATOR CHAMBERS: No. Senator Beutler, the term "legal fees" is found...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...on line 19, as well as the words "bond counsel fees" on line 19 and 20. Would legal fees not encompass bond counsel fees? Because they're not saying litigation, negotiation, or anything like that, just the broad term "legal fees." So I'm asking you, would not the term "legal fees" encompass bond counsel? And if not, why, in your opinion?

SENATOR BEUTLER: Senator, you're going too fast for me, since I'm not...

SENATOR CHAMBERS: I'm sorry.

SENATOR BEUTLER: ...totally familiar with the structure of the amendment. And so you're going to have to give me a little time to...

SENATOR CHAMBERS: Okay.

SENATOR BEUTLER: ...to agree or disagree with you on that.

SENATOR CHAMBERS: Well, by the time that I speak again, you may have had a chance to look at it. And it would be on page 1 that I'm talking, line 19.

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SENATOR BEUTLER: All right. And where is the other reference?

SENATOR CHAMBERS: Where it says "legal fees," and "bond counsel" is also on line 19.

SENATOR BEUTLER: Oh, I see.

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR BEUTLER: Thank you.

SENATOR CHAMBERS: Thank...

SENATOR CUDABACK: Thank you. And thank you, Senator Kremer. On with discussion of FA352 to AM1864. Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President, members. Senator Mines came down just a moment ago and indicated to me that I was correct in my statement about "short in the tooth." Teeth wear down as a person ages, and he indicated to me, Senator Mines did, that only a horse's gums recede. So, Senator Chambers, I don't know if you're right in that, but you might want to take that up with Senator Mines. I do want to point out, I've been working with Senator Chambers these last few years in the art of drafting legislation, and he's coming along rather nicely. (Laughter) And I've been schooling him on, again, the art of drafting legislation, and there's a thing in drafting legislation that's called a laundry list. And oftentimes, when you're drafting legislation, you put in every possible thing associated with that. And in this section that Senator Chambers is talking about, any cost relating to the issuing and servicing of mandated project bonds, including, but not limited to--and here's where the...what they call a laundry list in law comes about--servicing fees, trustee fees, legal fees, administrative fees. And basically what the bill drafter is trying to do in that regard is to have an exhaustive list of every fee that could possibly be associated with the letting of those bonds, so as there's no mistake later on when somebody is trying to interpret what the Legislature meant in that phrase, or that series of phrases. So that's what that is. It's a laundry

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list. It's trying...what it's trying to do is outline every possible cost associated with the letting of those bonds. I do want to go back, and I want to focus on what the bill does, because I think it's really important to understand precisely what the bill does. And again, these bonds will be let only for those projects that are mandated by either the federal government or by the state. Just to go through a little bit, it allows public entities, public power districts, the option to securitize the financing of mandated projects, which will result in lowering financing costs borne by customer rates. So they...the utility, if they want or can get a higher bond rating, they have the option of a separate charge on the bill, which would be used as a secured stream of money to retire the bonds. They don't have to do this, but it makes sense from a customer's perspective that they would, because if they can get a higher bond rating, the interest on those bonds is less, so the separate charge on a person's bill would be less. Capital projects, they, again, have to be mandated by federal or state law, or by a regulatory agency. They're usually environmental, has to do with renewable energy or an NRC license. I guess that's "nuclear" regulatory licenses. (Laugh) A separate dedicated customer charge pays for the mandated project bonds debt service. And another thing, there's a protection in the bill that allows or requires an annual explanation to customers. So you'll see in your bill of a public entity that took advantage of this section of statute, you'll see in your bill an explanation of that separate charge. And I had asked the OPPD representative what that charge was. He's getting those numbers, but he thinks it's nominal, a dollar or two. But there would be an explanation in the bill on an annual basis that says what the charge is there for, why they had to put that on, how it benefited the customer, and, I would assume, how it related to letting of the bonds. Also, again, as I mentioned earlier, Senator Beutler was involved, and he had a concern that there was a lack of an appeal process. So the amendment allows for an appeal to the Nebraska Supreme Court after the passage of a public entity's resolution allowing for a mandated project charge. Now, again, what would happen is,...

SENATOR CUDABACK: One minute.

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SENATOR BOURNE: ...is the board that administers the public entity would pass a resolution. And these are elected individuals, so there would be public recourse, public...the public would have an opportunity to come in there at a public hearing and offer their thoughts on this additional or separate charge. And then, if the public entity decided to go forward, they would have to pass a resolution. Now, Senator Beutler had an interest that there was no appeal process, and that's fair and legitimate. So what OPPD and Senator Beutler and Senator Schrock did was set up a mechanism by which an individual can appeal to the Supreme Court after the public entity's board passed the resolution. So an additional belt and suspender approach, if you will. The benefits to Nebraska utility customers if this bill passes, the highest bond rating would probably be attached; would be a AAA instead of a AA. It would lower costs for financing mandated projects by reducing the total interest expense. And again, some of these mandated projects are hundreds of millions of dollars.

SENATOR CUDABACK: Time, Senator.

SENATOR BOURNE: Thank you.

SENATOR CUDABACK: Thank you, Senator Bourne. Senator Chambers. And this will be your third time, Senator.

SENATOR CHAMBERS: Thank you, Mr. President. And I'm not going to take these amendments to a vote, and I'm not going to move to reconsider. I don't need to do that in order to have the discussion that I'm interested in having. And I think it's proceeding well. Now that Senator Brashear is here, I'm going to ask him a question or two about the area that I was interested in before, which would be on page 1, starting in line 17.

SENATOR CUDABACK: Would you yield,...

SENATOR CHAMBERS: The first thing I would like to ask Senator Brashear is, does he have a copy of the amendment?

SENATOR CUDABACK: Would you yield, Senator Brashear?

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SPEAKER BRASHEAR: Yes, Mr. President, I will. Yes, Senator Chambers, I do have a copy. Thank you.

SENATOR CHAMBERS: Now, Senator Brashear, in line 9, all of this that follows line 9 is relating to the meaning of "financing costs."

SPEAKER BRASHEAR: Yes, sir.

SENATOR CHAMBERS: When we get in line 17, we see the word "cost" again, "Any cost." Did you see it?

SPEAKER BRASHEAR: I do see the word "Any"...the phrase "Any cost."

SENATOR CHAMBERS: Now when we go to page 2, in line 1, we see the word "expense." Is there any difference between "cost" and "expense," or are they just two words saying and meaning the same thing?

SPEAKER BRASHEAR: Well, in quickly reading it, Senator Chambers, in subsection (3) it seems to me we're dealing with fees, whereas in section (4) we're dealing with items other than fees. For instance, "expense associated with any bond insurance policy" would be the premium, or any tax on the premium; "credit enhancement, or other financial arrangement" would...and "the issuance of mandated project bonds," those are what would be called expenses. But I'm not trying to be overly technical.

SENATOR CHAMBERS: No, that's okay. That's...

SPEAKER BRASHEAR: I think you could flip those words.

SENATOR CHAMBERS: And I'm not trying to require the dropping of words or anything like that. I just want to see the difference, and you're touching on it, because often I will see the term "fees and expenses," so both can be used. But now I can proceed with some of these and ask you what they mean. Would you look in line 19, where we have the words "legal fees," then, at the end of line 19 and the first word in line 20, we have "bond

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counsel fees." Why would not bond counsel fees be encompassed in the words "legal fees"? Let me ask it a different...

SPEAKER BRASHEAR: Now, in part I'm speculating, but I'm also using experience.

SENATOR CHAMBERS: Okay.

SPEAKER BRASHEAR: You're going to have lawyers who are representing the parties, and you may then have a...and you will have bond counsel for the underwriters who are issuing bond counsel opinions upon which the underwriters are relying. So while they would all generically become legal fees, they're different kinds of legal fees. One might be legal fees for the entity, whereas bond counsel fees would be relating to the opinion on the issuance.

SENATOR CHAMBERS: So "bond counsel" can actually be something outside of the ordinary understanding of "legal fees"?

SPEAKER BRASHEAR: Yes, I think in this context I think it could be.

SENATOR CHAMBERS: Okay. And before I finish with you...I meant, I want to ask Senator Bourne a question, then I'll come back to you. Senator Bourne?

SENATOR CUDABACK: Senator Bourne, would you yield?

SENATOR CHAMBERS: Two things.

SENATOR BOURNE: Yes.

SENATOR CHAMBERS: You had mentioned that what we have in lines 17 through 23 is what you referred to as a laundry list of fees, more or less.

SENATOR BOURNE: Some people call that a laundry list, that's right.

SENATOR CHAMBERS: Okay.

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SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: Why do we not have, since we have a laundry list--because you said "every fee imaginable"--why do not...we not have the "fi-fo-fum" fee?

SENATOR BOURNE: Yeah, the "fi-fo-fum" fee is not recognized in modern-day jurisprudence.

SENATOR CHAMBERS: Well, it is in a fairy tale, though, isn't it?

SENATOR BOURNE: Not that I...I don't know, Senator Chambers.

SENATOR CHAMBERS: "Fee-fi-fo-fum"? You haven't heard "fee-fi-fo-fum"?

SENATOR BOURNE: Oh, I have,...

SENATOR CHAMBERS: Okay.

SENATOR BOURNE: ...especially as it relates to the law.

SENATOR CHAMBERS: Okay, so then it would have a place. But here's what I want to ask you know. Did you say the word...did you use the word "nuculer"?

SENATOR BOURNE: (Laugh) No, I said "nuclear." You had earlier referred to it as "nuculer," and I was trying to make you feel better, because I recognized you mispronounced it. And I didn't want to bring that to your attention, but I thought if I copied the way you said it, you wouldn't feel quite so bad once you became aware that it's "nuclear."

SENATOR CHAMBERS: Thank you, Senator Bourne. Senator Bourne is...

SENATOR CUDABACK: Time, Senator. Senator Schrock, on the Chambers amendment to your amendment.

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SENATOR SCHROCK: (Microphone malfunction)...President, members of the Legislature, I appreciate Senator Bourne's help, I appreciate Senator Kremer's help, and the Speaker's help. Senator Chambers, I want you to know that I'm exhausted, I'm about wore out, so I don't know who's going to last the longest. I see that you're speaking to the Speaker. But I did have a question to ask you, being as Senator Bourne has made the observation, and Senator Mines has made the observation, that you're kind of long in tooth. So if you have time, Senator Chambers,...

SENATOR CUDABACK: Are you asking a question, Senator...?

SENATOR SCHROCK: ...I would ask you a question.

SENATOR CUDABACK: Senator Chambers, would you reply? Could you reply, or may you?

SENATOR CHAMBERS: Yes, I will.

SENATOR SCHROCK: Senator Chambers, I don't know if you're long in tooth, but one thing we do on our farm on an annual basis is check the teeth of our cattle. Now, I have to ask you, do you know the difference between the sheep and the cows when it comes to teeth?

SENATOR CHAMBERS: Well, I'm going to say, like this judge said when they were asking him about pornography: I know it when I see it. (Laugh)

SENATOR SCHROCK: Okay. Did you know that there...we used to have feuds in the old open range wars with the cattlemen and the sheepherders?

SENATOR CHAMBERS: Yes.

SENATOR SCHROCK: And do you know why there was a conflict there?

SENATOR CHAMBERS: Yes, because one ate the vegetation much closer to the ground than the other, and because the one who did

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the eating was smaller, covered with wool, and the other ones had great large animals and didn't like little animals, they felt that those who had the animals that nibbled off the vegetation closer to the ground should not be there. So the cattle people did not like the sheepherders.

SENATOR SCHROCK: You're very correct there. But...

SENATOR CHAMBERS: Even though Jesus was a shepherd.

SENATOR SCHROCK: Did you know that cows do not have teeth on top, when...so...?

SENATOR CHAMBERS: Well, I hadn't checked. But if you tell me that's the case, I will accept that.

SENATOR SCHROCK: That is the case. So they can't bite the grass like the sheep can. They got to kind of wrap their tongue around it and kind of pull up the grass. They have teeth on top and bottom in the back, but on the front they do not have teeth on top.

SENATOR CHAMBERS: While we're on that, do you know the difference between a grazer and a browser?

SENATOR SCHROCK: I do not.

SENATOR CHAMBERS: A grazer eats the vegetation off the ground; a browser takes small limbs and vegetation off bushes and trees.

SENATOR SCHROCK: Well, we're both learning something important this morning.

SENATOR CHAMBERS: Well,...

SENATOR SCHROCK: Senator Chambers, I would conclude my comments, but if you'd like the rest of my time, you may have it.

SENATOR CHAMBERS: Thank you. And Senator Brashear is working with me,...

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SENATOR CUDABACK: You have about 2.5 minutes.

SENATOR CHAMBERS: ...if he is still on the floor.

SENATOR CUDABACK: Senator Brashear, are you within range? Yes, he is, Senator Chambers.

SPEAKER BRASHEAR: Yes, Mr. President.

SENATOR CHAMBERS: And I do appreciate Senator Schrock giving me some time. Senator Brashear, in line 19, where we have the term "administrative fees," what does that term...is that a general term that could embrace a lot of the specific things that are contained in this paragraph, in subsection (3)?

SPEAKER BRASHEAR: I wouldn't consider administrative fees to be able to embrace or include, for instance, trustee fees. Those are very specific legal fees, very specific. Bond counsel fees, underwriting fees, I don't consider any of those administrative. Remarketing fees, broker dealer fees,...

SENATOR CHAMBERS: So,...

SPEAKER BRASHEAR: ...administrative would become, in my judgment, anything clerical and nonspecific, in relationship to those that are specific.

SENATOR CHAMBERS: So although it wouldn't embrace these other items, it could have a bearing on them, from the standpoint of the way you described the term?

SPEAKER BRASHEAR: I believe...

SENATOR CHAMBERS: There could be...

SPEAKER BRASHEAR: ...it's more catchall,...

SENATOR CHAMBERS: Okay.

SPEAKER BRASHEAR: ...and part of a complete laundry list.

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SENATOR CHAMBERS: Now, in lines 20 and 21 are the two words "broker dealer." What is the difference between a broker and a broker dealer? Is it that a broker is broke, and a broker dealer is more broker?

SPEAKER BRASHEAR: (Laugh) No.

SENATOR CUDABACK: One minute.

SPEAKER BRASHEAR: It's not a broker and a dealer, it's a broker dealer, so it's a broker who's dealing in the bonds.

SENATOR CHAMBERS: And what is a broker?

SPEAKER BRASHEAR: And that's a term of art.

SENATOR CHAMBERS: And whet is a broker?

SPEAKER BRASHEAR: A broker is someone who's making a deal.

SENATOR CHAMBERS: So a broker is dealing, and broker dealer is...

SPEAKER BRASHEAR: Deals.

SENATOR CHAMBERS: ...dealing. Are they the same? I really don't know. I had never seen "broker dealer" as distinct...

SPEAKER BRASHEAR: They...I think...

SENATOR CHAMBERS: ...from a broker.

SPEAKER BRASHEAR: I think they could...we could call them broker fees, we could call them broker dealer fees. We're into the jargon of bond placements, issuance and placement, here.

SENATOR CHAMBERS: Okay. I just want to be sure that this term of art is not something different from "broker." Now, when we go to the next page, because you mentioned, in line 20 on this page, "underwriting fees," what do underwriting fees have to do

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with?

SPEAKER BRASHEAR: "Underwriting" is a term of art. You under...when you underwrite bonds, that's a...

SENATOR CUDABACK: Time, Senator.

SPEAKER BRASHEAR: ...generic concept of issuing them. They are underwritten. In other words, they have...

SENATOR CUDABACK: Time is up.

SPEAKER BRASHEAR: ...financial assurances...did you say time, Mr. President?

SENATOR CUDABACK: I did, Senator.

SENATOR CHAMBERS: Now, you're the Speaker. You don't have to yield if you don't want to.

SPEAKER BRASHEAR: Oh, yes, I do.

SENATOR CUDABACK: In this case, time is up. Sorry.

SENATOR CHAMBERS: I stand corrected. (Laugh)

SENATOR CUDABACK: Senator Beutler.

SENATOR BEUTLER: Senator Cudaback, I think the conversation between Senator Brashear and Senator Chambers cleared up the problem that he had identified earlier. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Further discussion? Senator Preister.

SENATOR PREISTER: Thank you, Honorable President, friends all. I'd like to ask Senator Bourne a question, or have a dialogue with him, if I may, please.

SENATOR CUDABACK: Senator Bourne, would you yield?

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SENATOR BOURNE: Yes.

SENATOR PREISTER: Senator Bourne, you seem to have some interest and experience. And when you first spoke, you really sounded like a cheerleader for OPPD. And most of what you said I agree with. I would like to pose a couple of questions, the first, theoretical. If you were in a position where you had some debt, you owed some money, say, your house payment, your car payment, and you were coming into some money, let's say you won the lottery and you just received a large sum of money, would you take that money and give it all away? Or would you use that money to pay off some of your debt, particularly if you were concerned about your credit rating?

SENATOR BOURNE: Well, now, you're talking what would I do? I would (inaudible)...

SENATOR PREISTER: Just you, just theoretically.

SENATOR BOURNE: Yeah, if I won the lottery, I would give some money away.

SENATOR PREISTER: And you wouldn't pay off your debt or be concerned with your credit?

SENATOR BOURNE: Oh, certainly I would do that.

SENATOR PREISTER: Okay. The correlation I'm making is that I believe you realize that OPPD was part of the suit against the state of Nebraska in the low-level nuclear waste compact.

SENATOR BOURNE: You bet. And I realize that OPPD was repaid the money that was taken from it.

SENATOR PREISTER: I would agree with that. They received...

SENATOR BOURNE: So there's no analogy whatsoever to a lottery. They were wronged, they sued, as is their right, and they received a settlement.

SENATOR PREISTER: And I wouldn't argue with that. They

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received \$15.5 million in that settlement. And are you aware of what they did with that money?

SENATOR BOURNE: I have no idea. And quite frankly, it matters not a whit to me. It was rightfully theirs, and it's free to do with what...that public entity, owned by its ratepayers, is free to do with it what they will.

SENATOR PREISTER: And I would agree with that. They gave \$23, approximately, of that back, I believe it was last November, to all of their ratepayers.

SENATOR BOURNE: I remember...

SENATOR PREISTER: So in a sense, they did give it back.

SENATOR BOURNE: I remember seeing that on my bill, and I was very appreciative, given that it was the Christmastime.

SENATOR PREISTER: So that was one way of dealing with that money, which was not, certainly, analogous to winning a lottery, but certainly a large chunk of money, \$15.5 million, that came in. Now,...and that's all I would ask you, Senator Bourne. Thank you. If I were in the position...and it's a management and a judgment call, and OPPD has got a board of directors that are elected by the people, so it's democratically elected representation, and I understand they can make the decisions they want. But if I were concerned about a bond rating, if I wanted to reduce my indebtedness, if I wanted to look out for the ratepayers, I would consider refinancing existing bonds, I would consider paying some of the cost of the new coal-fired power plant that they're building, I would look at how much money is now going to be needed for these mandated requirements. Yes, you can give \$23 back to each individual ratepayer, and yes, they'll see it and they'll think, oh, that's nice, and they'll forget it. It is nice to do for them, and I appreciated that \$23...

SENATOR CUDABACK: One minute.

SENATOR PREISTER: ...off of my bill. However, that small

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amount for each ratepayer, in the aggregate, in the total, could have done so much more. We would not have had to increase OPPD's rates this entire year, first year that they're looking at the increase. So were they within their authority to do what they did? Absolutely. But in my judgment, they could have saved the ratepayers more money in using that to reduce bonded indebtedness, or not go into purchasing bonds and create more indebtedness in the future. And in the aggregate, keeping that money together, investing it that way, I think they could have saved the ratepayers more than the \$23 that they got in a one-time shot, a very small one, although a welcome one at that. Thank you.

SENATOR CUDABACK: Thank you, Senator Preister. Further discussion? Senator Bourne. And this will be your third time.

SENATOR BOURNE: Thank you, Mr. President, members. I appreciate what Senator Preister is saying, but frankly, I think I need to clear this up just a little bit. First of all, what I did was praise OPPD on the fact that they hadn't had a rate increase in countless years. I do want to point out that in the lawsuit, OPPD was paid back the money that they had put in pursuant to a court order, that they were free to put back into their coffers. They did return, I don't know if all of it or a portion of it. But when Senator Preister says that they could have used that to prevent a rate increase, that's just simply not true. We are...they are talking about spending several hundred million dollars on a mandated retrofit of Fort Calhoun. Now, when you look at \$400 million and you compare \$15 million to that, it doesn't even compute that that \$15 million would do anything as it relates to satisfying those bonds that the federal government has said to OPPD and other power plants, you have to do this in order to comply with clean air standards, but, oh, by the way, we're not going to give you a nickel in money to help you do this. I praised OPPD in their progressiveness in putting forth legislation like this, spending their time and their effort to actually reduce rates for customers because of what the federal government said they had to do. You know, quite frankly, it would be easier for OPPD to sit back in their office and pay attention to their business there of servicing their customers. But instead, they're down

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here trying to come up with solutions to minimize the rate impact on its ratepayers. They don't deserve criticism for that; they deserve praise for that. It would be far easier not to interject themselves in the legislative process and minimize the rate increase on their ratepayers. But instead, they chose to do so, to bring forth legislation, to spend time, to spend effort, to spend resources, to hire attorneys, to craft legislation that's clever, that's smart, that's progressive, that actually helps the ratepayers. And I commend them for that. I won't apologize for that. This is a jewel in our state, and to say that somehow a nominal settlement from a court case, when you're talking about hundreds of millions of dollars in mandated projects, is beyond ridiculous. So again, I stand by my comments. I praise OPPD. I thank them for coming down here, spending the time and the resources to try to minimize the ratepayer...the impact on ratepayers, on my constituents, who, frankly, are in north Omaha, and any little bit of an increase matters to them. The fact that OPPD is being progressive and minimizing that rate increase is commendable. I wish more public entities were doing that. With that, if Senator Chambers would like the balance of my time, I'd give it to him.

SENATOR CUDABACK: Senator Chambers, about 1, 52.

SENATOR CHAMBERS: Thank you, Mr. President. And it's ironic, and maybe poetic justice, that Senator Bourne would give me this time, because he is the one who's been saying "nuclear." He knows that I cringe every time I hear that word. Hearing that word almost makes me go "nuclear." I explained to him that the way to pronounce the word is "nuclear." I didn't give this example, but we're not talking about word like "muscular," where it's proper to put the "u" in there. You wouldn't say "musclear." He probably would. But "muscular" is the proper pronunciation; "nuclear" is the proper pronunciation. We're talking about the nucleus, and that which relates to the nucleus is nuclear.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: "Nuclear" is an illiteracy. We expect it from the President, after all, but we don't expect it from a

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member of the Legislature making \$12,000 a year. We look for more than that out of him. So whenever somebody wants to make me cringe, pronounce a word incorrectly. Mispronounce "nuclear" as "nucular." In my closing, I'm going to mention why I cannot just praise OPPD unstintingly. They went along, when they didn't have to, with allowing the police to get the names of black employees so that they could be hounded by the Omaha Police into giving DNA samples because there was an alleged serial rapist, and the description...

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR CUDABACK: Further discussion? Senator Stuthman.

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I would like to engage in a little conversation with Senator Schrock, if I may, please.

SENATOR CUDABACK: Senator Schrock, would you yield to Senator Stuthman?

SENATOR SCHROCK: Yes.

SENATOR STUTHMAN: Senator Schrock, in Section 3, on line 20, it states that there will be possibility of a remarketing fee. Can you explain to me what that would be? And is that going to be a fee that is tacked on? I am not opposed to a marketing fee; but a remarketing fee? Could this escalate into quite a number of tools that could add an expense and be part of the bond that would have to be serviced by the average person?

SENATOR SCHROCK: Senator Stuthman, I would presume that would be if they had agreed on a fee, but then they decided they could get a lower rate at some point in time, and they would try to remarket that. I don't deal with this kind of financing in my everyday life, so I'm going to assume some of these things. But I would guess, if you have marketed your fees, and then you decide to refinance, then there'd be a remarketing fee. And I suppose that was included so they could be all-inclusive.

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SENATOR STUTHMAN: And in real...in respect to the bond and in respect to the people that are having to service the bond, I think that would be a correct answer. If there would be a possibility that the interest rate could be lower, this would be a way to do it.

SENATOR SCHROCK: Yea, it would be.

SENATOR STUTHMAN: The thing that I'm concerned about is if some company, you know, maybe wants to have the opportunity to sell bonds, and they would do a remarketing fee. I'm just concerned so that we don't put something in there that would allow them to adjust it and add a bigger cost to it. But in your comments, you know, I think you're realistically right, that that is something that, you know, hopefully will be some tool that they can use to hopefully be...the end total cost would be lower, by hopefully finding someone at some time to be cheaper on the bonds. But there's always a penalty of repaying the bonds off earlier, so I think that would all have to be taken in consideration. I'm really concerned about the fact that that's in there, the remarketing fee. But maybe it should be. And I'm not an attorney, and...but I respect your comments. Thank you. I'll return the balance of my time to the Chair.

SENATOR CUDABACK: Thank you, Senator Stuthman. Senator Loudon, on the Chambers amendment.

SENATOR LOUDEN: Thank you, Mr. President and members of the body. Having served on a cooperative power association, whenever you have a mandated project charges, this is always a real concern for anybody...for anything like that. The question is, is how you pay for them when they've been mandated. My observation from this bill is, if...the way it's done, then, that can be lined out on the bill for the mandated project charges, and then as that gets paid off, that bill then will reflect that that's paid off, and will go away from the bill. Otherwise, if that...something like that isn't in there, you have to use it into your...incorporated into the bill, and then as time goes on, if that gets paid off, it doesn't necessarily reflect whether or not the bill should go down. So I think it's

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very helpful in a consumer to realize what they're paying for when they get their bills stated. And of course, if there's a chance that by doing this you are able to use that bonding or that line of revenue to pay for that bond, that's where you will usually get a cheaper bonding rate or cheaper rate of interest. And according to this, this was...I think came forward mostly because, to start with, Omaha Public Power, was my understanding. But there are other power districts in the state that will no doubt use this as time goes on. You have your Nebraska Public Power, and they have some of their generation stations that, in time to come, there's going to be some mandated projects on those where they have to clean them up and bring them around into environmental compliance from time to time. And there needs to be work done on them. So I think anything we can do to help these public power districts and these cooperatives to have a cheaper rate of interest for the people in Nebraska is something that has to be seriously considered. So at the present time, I certainly support this bill. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Loudon. Further discussion? Senator Schrock. This will be your third time, Senator.

SENATOR SCHROCK: Mr. President, members of the Legislature, Senator Stuthman, I just wanted to respond a little more. You know very well that our public power districts are elected boards. Some of them are pretty shrewd businessmen, and some of them are dedicated public officials. I think your concerns, although maybe well founded, I have a lot of confidence in those boards, that they are good business managers. And of course, they'll have good counsel. They'll have good business people, business managers from those companies. I'm fairly confident that this will be implemented properly, it will be used properly, there won't be any excesses, and there won't be any games played. I think our public power districts have been very responsible. This could be used by even our rural electric associations, although I can't imagine they would have any items that would make this necessary. It could be used by our municipalities, also, that have their own power generating facilities. So anybody that transport and generates power would

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have the ability to use this. But I think NPPD and OPPD would be the main beneficiaries of this. And you know, as a farmer, the electric power has become very important to us. Electricity is now the power of choice for powering irrigation wells, because it is more reasonable. It creates some interesting dynamics, because they don't want to provide power to you in the middle of the daytime when it's 110 degrees out. The air conditioners compete with our electric motors and our irrigation wells. So they want us to irrigate at night. And interestingly enough, irrigation is more efficient at night, because you don't have as much evaporation. So I have an interest in this bill, because although we have a mix of power for our irrigation wells, irrigation...or, electricity is our major source of power for using...for our irrigation wells. And so this could effect me down the road and what I pay for my power. I would say it probably won't be a significant effect, but it could affect what's going on. And so I think rural Nebraska has a big interest in this. This just isn't an OPPD bill. This is an NPPD bill, this is a bill for all the citizens of this state. And I appreciate your interest, and I thought I'd respond.

SENATOR CUDABACK: Thank you, Senator Schrock. Seeing no more lights on, senators wishing to speak, Senator Chambers, you're recognize to close on FA352.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I began, when I ran out of time the last instance when I spoke, to talk about where I feel OPPD was absolutely wrong, their leaders. But this is a situation where I have to give credit to a man who would be called a lobbyist, Tom Richards. I talked to Tom about how offended I was at what OPPD, and he arranged to have some of the top dogs from OPPD meet me in my office, and we talked our way through it. And I condemned them harshly. What they did was went along, without challenging it, with the police getting employee information on black employees at OPPD. And OPPD did not challenge it. What their house counsel told me, well, they told us that if we don't give them this information, they'll back a truck up to the office, they'll take our hard drives, our software, all of our file cabinets. I said, man, one of us is a fool. Do you think that if they pulled a truck up to OPPD to do that, somebody wouldn't call Mayor Fahey and

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say, you got a bunch of idiots down here; you bring them in line? And he acknowledged, well, yeah, they probably wouldn't have done it. I said, but because they're black men it made no difference. A description of a so-called serial rapist was that he's 5'9" or less; heavy, meaning obese; had very short hair or a shaved head; weighed between 100-and-something to 250 pounds. You're talking about a bowling ball. You know the kind of men that the police went to? Some of the men were over 6 feet tall, thin, and had dreadlocks. And what the police would do is go to a man's house in the evening or on the weekend, when neighbors would be out in the yard, and they'd pull up and walk up to the door, and talk loud in front of the man's family about this serial rapist, and if he had nothing to hide then he'd let them take a swab for DNA purposes. And the man doesn't know what they're talking about. And naturally, his wife, or if it happens to be a significant other to whom he's not married, they're looking. What is this? What are you associated with? So because of that, under that pressure, he would allow them to take the DNA sample, and was bitter. In one case, there was a family gathering, people from outside of Omaha, and the cops knew it. So they hounded and harassed all these black men, did not find a suspect, and to this day, they have not found anybody they could associate with any serial rape. You know what the rats were doing? And I blame that Uncle Tom chief, whom I refer to as the chief, "Uncle" Tom Warren, for letting this go and going along with it. They wanted a federal grant, in conjunction with the State Patrol, where they were supposed to try to get DNA samples to solve unsolved cases where there were no suspects. So they went around to these black men who did not fit the description that the police gave. And that wouldn't happen anywhere else except in our community. I criticized the chief, I talked to the mayor, all the ones who should have done something about it, but they were unconcerned and it made them no difference. That's why on this floor when I speak in bitter terms, I'm talking about what has happened to black people in my community, at the hands of white people and their Negro stooges, like the chief of police. He has been made the chief for the same reason that Clarence Thomas was put on the U.S. Supreme Court. He's going to do the flunky work for white people; then, when black men and women who are...

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 LR 276

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...concerned about the race and our welfare speak up, the first thing they say is, well, one of your own goes along with it. He's not our own. He's white people's own. That's why they made him chief. But after Mr. Richards arranged this meeting and we talked through it, and I lambasted OPPD and the fact that they threw these men to the wolves and should not have done it, and that they could have made a legal challenge, OPPD wanted to make amends. And they have been doing some things of which I approve. But I don't want anybody to praise them to the highest, as though they're perfect, they walk on water. They are an idol, and that idol has feet of clay. When it comes to this bill, I'm not trying to stop the bill, and I don't intend to try to stop the bill. And I explained to Mr. Richards and Mr. Lindsay that their bill is not at risk based on what I'm doing.

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: Thank you, Mr. President, and I will withdraw that proposal that's on the desk now.

SENATOR CUDABACK: FA352 is withdrawn. Mr. Clerk, items for the record, please.

CLERK: Mr. President, Senator Stuthman offers a new resolution, LR 276. That will be laid over. Your Committee on Health and Human Services reports LB 766 to General File. And I have a...the Government, Military and Veterans Affairs Committee first priority bill designation (LB 188). (Legislative Journal pages 411-412.)

Mr. President, the next amendment I have to Senator Schrock's amendment is by Senator Chambers, FA353. (Legislative Journal page 412.)

SENATOR CUDABACK: Senator Chambers, you're recognized to open on amendment FA353 to AM1864.

SENATOR CHAMBERS: Thank you. Mr. President, members of the

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Legislature, this is a proposed amendment that would strike Section 3. Section 3 deals with these financing costs and the matters that I had been discussing with Senator Brashear and others. I'd like to ask Senator Brashear a question or two, if he's still on the floor.

SENATOR CUDABACK: Senator, I do...

SENATOR CHAMBERS: Oh, he's not on the floor, so that's all right. I'm going to look at this laundry list and say that I can understand when a legal-type person is dealing with a complex, or complex, issue such as we have here, and wants to make sure that every possible loophole that could work against the interests of the client will be filled. But some of these terms are not clear to me, as far as their relationship to this bill. So now that Senator Brashear is back, I'd like to ask him a question or two, so that he might bring enlightenment not only to me, but help create a legislative history on this bill.

SENATOR CUDABACK: Senator Brashear, would you yield to a question from Senator Chambers?

SPEAKER BRASHEAR: Yes, Mr. President, I will.

SENATOR CHAMBERS: Senator Brashear, in line 21 on page 1, what is the meaning of the phrase "interest rate swap agreement"?

SPEAKER BRASHEAR: An interest rate swap agreement is a technical financial transaction, as between two or more parties. It's a part of marketable securities inventory.

SENATOR CHAMBERS: What is swapped? And why do they call it an "interest rate swap"?

SPEAKER BRASHEAR: One issuance for another, because they are trading things...they are trading two things of value in order to achieve a desired objective.

SENATOR CHAMBERS: It was clear as mud, but it covered the ground. The confusion made my brain go round. My understanding of this is very thin, so I think I'll have to ask the

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question...

SPEAKER BRASHEAR: (Laugh) Again.

SENATOR CHAMBERS: ...again. Senator Brashear, I still don't know exactly what comprises an interest rate swap. Are you talking about two different interest rates? Or just what is the subject of the swap?

SPEAKER BRASHEAR: I will quickly fall into the black hole of ignorance, but nevertheless, I'll not be fearful. We are talking about two securitized commodities, or issues of commercial paper. We're talking about two different interest rates, and we're talking about swapping a quantity of one that is not necessarily equal to a quantity of the other, in order to achieve some objective that we want, where both parties are satisfied and both parties get the benefit of a bargain, or make...or one or the other or both make money.

SENATOR CHAMBERS: So if you are paying an interest rate of 2 percent, I'm paying an interest rate of 3 percent, there may be a set of circumstances where you would agree to pay the higher rate and let me pay the lower rate, because by so doing both of us would gain something that we aren't currently gaining?

SPEAKER BRASHEAR: Never so quickly has someone who doesn't know led someone to complete understanding.

SENATOR CHAMBERS: (Laugh) See, that's what happens when you're dealing with somebody like me, who doesn't understand. Now, Senator Brashear, when I go to line 20 and I see "underwriting fees," what is being underwritten, and how is that underwriting occurring?

SPEAKER BRASHEAR: OPPD is the issuer.

SENATOR CHAMBERS: Yes.

SPEAKER BRASHEAR: Someone agrees to underwrite the bonds. And so I don't use...it's one of the financial institutions whose

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names you hear all the time.

SENATOR CHAMBERS: Okay.

SPEAKER BRASHEAR: One of the investment banks of regional or national renown in the marketplace agrees to underwrite the whole issue, and they distribute it to the broker dealer network, that sells it to the consumer, who puts it in their portfolio.

SENATOR CHAMBERS: So it would be similar, in order that some of my colleagues might understand it in the way that I'm trying to understand it...this is not reinsurance, though, is it? Senator Brashear, this is not reinsurance, though?

SPEAKER BRASHEAR: No, this is not reinsurance.

SENATOR CHAMBERS: Okay.

SPEAKER BRASHEAR: We are in the securities market, issuing bonds.

SENATOR CHAMBERS: And this is where the financial entity underwrites...does that mean assumes the risk of this operation?

SPEAKER BRASHEAR: Yes, subject to terms and conditions, of course.

SENATOR CHAMBERS: And that risk is spread among different entities by way of these broker dealers so that no single entity is at risk, although one, that first entity, might be the umbrella under which all this other stuff is being spread out?

SPEAKER BRASHEAR: But it is very large, very well capitalized. It knows what it's doing in this market, and it's willing to take the risk because it knows that it has a network and a methodology for off-loading it.

SENATOR CHAMBERS: And this is...

SPEAKER BRASHEAR: And it's making a commission or whatever in

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these transactions.

SENATOR CHAMBERS: And this is typical and ordinary and well understood in this area of financial dealing?

SPEAKER BRASHEAR: This is usual and customary commerce, yes.

SENATOR CHAMBERS: Now, what is the difference between securitized, capitalized, and...okay, what's the difference between those two, if there is any difference?

SPEAKER BRASHEAR: Or if I know.

SENATOR CHAMBERS: Well, what does "securitized" mean?

SPEAKER BRASHEAR: "Securitized" means that you...that there is some...something behind the undertaking, whether it be a promise, a pledge, collateral, or cash,...

SENATOR CHAMBERS: Okay.

SPEAKER BRASHEAR: ...or cash equivalents.

SENATOR CHAMBERS: Okay.

SPEAKER BRASHEAR: That's "securitized." That's a very broad term.

SENATOR CHAMBERS: And it goes beyond simply collateral, because you said it could just be a promise or something like that, and collateral has to be something that can be liquidated, correct?

SPEAKER BRASHEAR: Yes, I think we are on...generally speaking, on the right track.

SENATOR CHAMBERS: Okay. Now on the next page, when we get into line 1, "Any expense associated with any bond insurance policy," where does the insurance policy come in, and why is that necessary, in view of the arrangement you and I just discussed?

SPEAKER BRASHEAR: This is a way of spreading risk. This is an

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insurance policy that insures the payment stream for which you pay a premium. And this, again, brings somebody else into the orbit of liability for a fee or a profit.

SENATOR CHAMBERS: Why would OPPD pay for the bond insurance if this other financial entity has underwritten the entire operation? Is OPPD...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...providing insurance for that financial institution that has underwritten it?

SPEAKER BRASHEAR: You know, it's kind of...it actually, believe it or not, Senator Chambers, my understanding is it's quite cookie-cutter. And somebody in San Diego, California, who may be interested in these bonds as they go throughout the broker dealer network doesn't, believe it or not, doesn't know about Omaha Public Power District in Omaha, Nebraska, and frankly, they don't care. They want these bonds to be brought to them in the marketplace the same way AAA bonds are always brought to them. So this is the way you put your bonds in the league where OPPD is, so they sell anywhere to anybody, without due diligence by the individual end user.

SENATOR CHAMBERS: Since my time is up, I'll wait till I speak again, because I want to pursue this a little further. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the opening on FA353. (Visitors introduced.) On with discussion of the Chambers amendment to AM1864. Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President. Senator Brashear, I'm using shorthand to describe what you and I have talked about earlier so each...we don't have to...we don't have to give a full description, for example, of the underwriting entity. It would seem to me that if the entity is underwriting the entire project, if insurance is to be provided, that entity ought to do it. Otherwise, what is the advantage to OPPD? That's part one.

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And part two: If, in addition to this entity underwriting--I'm sure they're not going to do it for free--is there a double cost to OPPD which now must purchase insurance to cover the bonds? If I buy insurance to cover the bonds, what do I need anybody to do, other than maybe sell these bonds or distribute them to people who are willing to purchase them? That's a comment, but this is the question. If the bonds are insured, I presume the insurance would be provided by a company that's known and respected in the industry. So if this bond carries the endorsement of this insurance, or whatever you're going to call the proof of insurance, why do you need the reputation of the underwriting financial entity to persuade people to buy these bonds?

SENATOR CUDABACK: Senator Brashear.

SPEAKER BRASHEAR: Senator Chambers, it is the aggregation of all these positive things that assures the marketplace that these are AAA bonds, and what OPPD gets in return for doing it the way the marketplace wants it done is a lower rate. The safer it is, the more no-brainer the transaction is to buy it because it is well-underwritten, also insured, well-distributed, properly capitalized, et cetera, et cetera, et cetera, the rate comes down and down and down. Because the safer it is by multiple times,...

SENATOR CHAMBERS: But what...

SPEAKER BRASHEAR: ...then the ultimate end user is willing to take less as their return.

SENATOR CHAMBERS: What is being insured that is not provided for by this financial entity with the great reputation who is underwriting the entire project? What, in addition to that, is being insured?

SPEAKER BRASHEAR: Be...I'm going to make it shorter and then you take me where you want me to go.

SENATOR CHAMBERS: No, whatever you need to make your point clear.

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SPEAKER BRASHEAR: Underwriting is selling the bonds.

SENATOR CHAMBERS: Okay.

SPEAKER BRASHEAR: Insurance is the credit worthiness of the bonds. So once the bonds have been so...I...maybe I misled you or misspoke or whatever.

SENATOR CHAMBERS: Don't worry about that.

SPEAKER BRASHEAR: What I'm telling you is, once the underwriting is done and it has been sold, then it's the insurance upon which the purchaser would rely, in addition to the credit worthiness of OPPD.

SENATOR CHAMBERS: Senator Brashear, if I have somebody cosign with me for a loan, and my credit is not sufficiently reliable for me to get the loan, the loan is granted on the basis of the credit worthiness...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...of the cosigner and that is the one that ultimately the lender expects to pay off. I can be a deadbeat.

SPEAKER BRASHEAR: That's correct.

SENATOR CHAMBERS: So what would be expected to maybe happen to OPPD? I got to rephrase that question. What set of circumstances would come into play that would require the insurer to make payments to bondholders? Because I presume that's what they're trying to ensure the bondholders, that you're going to be paid off when the time comes.

SPEAKER BRASHEAR: In the event of a default, the end consumer would look to the insurance policy which would pay it off and they...then they would undertake the huge task of the litigate...this is in the event of default, the huge task of litigating and collecting from OPPD.

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SENATOR CUDABACK: Time, Senator.

SPEAKER BRASHEAR: That's very unlikely, but that's how it would work.

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Brashear.

SENATOR CUDABACK: Thank you, Senator Chambers. On with discussion of the Chambers amendment. Senator Stuthman, followed by Senator Chambers.

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I would like to engage in a little conversation with Senator Brashear, please, if he would.

SENATOR CUDABACK: Senator, Senator Brashear, when you get time.

SPEAKER BRASHEAR: Yes, I will yield, Mr. President.

SENATOR STUTHMAN: Senator Brashear, what we're dealing with here in this bill is with public entities. Is this correct?

SPEAKER BRASHEAR: Or quasi-public entities, yes, political subdivisions.

SENATOR STUTHMAN: Okay. And we're dealing only with the mandated project bonds?

SENATOR CUDABACK: Senator Brashear.

SPEAKER BRASHEAR: At quick read, yes, I believe that to be true.

SENATOR STUTHMAN: Okay, then, if this is what we're dealing with in this, in this amendment, in Schrock's amendment, with public entities, and can you refresh my memory as who is the governing board or do they have a governing board? Refresh my memory on what controls a public entity?

SPEAKER BRASHEAR: They have a...speaking generically, they have

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a publicly elected board of directors that are authorized by the statutes of the state, through this body, to govern this public entity.

SENATOR STUTHMAN: Okay. So those individuals that would be elected by the public, they are the ones that are responsible for the control of that public entity. That would be a governing board. So we're really dealing with, you know, the responsibilities of that governing board, and I think that governing board, you know, is very responsible to the group or that public entity that they've been elected to. So I feel very confident, you know, that all of this that is covered in that Section 3, you know, those are the issues that are under the responsibility of that elected governing board. Would that be correct, Senator Chambers...Senator Brashear?

SPEAKER BRASHEAR: (Laugh) Mechts nichts. You know, one in the same. (Laugh) Yes, I believe so.

SENATOR STUTHMAN: Okay, thank you. And I did have some concerns earlier about, you know, the reissuing of bonds and everything, and in further thought of that, you know, I think the primary goal of that governing board is to have the lowest rate possible for whatever entity that they're in control of. I think that's very true. And this gives them the tools, you know, to hopefully lower that rate. So with that, those are my comments and I'll give the balance of my time back to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuthman. Senator Chambers. Senator Chambers, are you...?

SENATOR CHAMBERS: Oh, I didn't know you had called me. I was in...

SENATOR CUDABACK: I'm sorry, maybe you didn't...maybe I didn't speak clearly enough.

SENATOR CHAMBERS: No, you did. I was in deep counsel with Senator Bourne, getting some instructions.

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SENATOR CUDABACK: You are now recognized.

SENATOR CHAMBERS: So I'm sorry that I wasn't alert to that, and nobody in the culture corner informed me. I guess they wanted me to take my comeuppance this morning and be humiliated, and the only way I can be humiliated is when I fail to do what it is that I ought to do. So I'm holding Senator Stuthman personally responsible and I assure him that I will exact my revenge sometime during the session, but you will not know when. When you least expect it, someday I will come up and say, smile. Okay. Mr. President, members of the Legislature, I was telling Senator Bourne, I doubt that anybody felt there could be as an exciting...as exciting a discussion of this bill as is unfolding here on the floor this morning. I find this very exciting, very invigoreting, very uplifting. Even Senator Bourne's attempt to contribute something is worthy of ecknowledgement, because it's not whether he wins or loses; it's how he plays the game. And when one plays the game the best he can, with his mearger ability, you have to give him credit. This bill is going to move. This bill ought to move. But I will wager that there are not ten people on the floor who understand what is in this bill. I will wager there are even fewer who care whet's in the bill, and let me tell you why that is. It hes too many pages. It hes too many numbered subsections. It has too many big words, for example, "policy," another, "administretive." Then I see "participation." So on a bill like this, who is going to take the time? One reason I make that digression, since I'm going to support the bill, in Congress, they are not bound by that rule that you can only have one subject in a bill. So a piece of legislation like this, dealing with a subject of this kind which might run on for several hundred pages, is not going to be read by anybody. That so-called Patriot Act was not reed through from beginning to end by any person in the world. They have not been able to find one person who has reed that entire thing, but all types of provisions, harmful to and destructive of the rights and interests of the public, were poured into that bill, and the ones sent by the people of Nebraska and the other 49 states, to look out for their interests, went to sleep at the switch and didn't care. They were too busy wearing flags and trying to "out-patriotic" each other. So as a result, there's atrocious legislation that comes out of Washington. An example

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was mentioned today where the senator who offered the amendment is lamenting that the U.S. Department of Justice and the Bush administration are misconstruing his amendment. It had said that anybody locked up in Guantanamo Bay prison would not have access to civilian courts. This senator is saying his intent was to have that be prospective in its operation, or that it would deal only with future cases. Because the Bush administration has been making power grabs and there's nobody in Washington like me who'll stand up and say, no, you're not, you're not going to do it, the public will know and if I can't get you here I'll get you someplace else. There's...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...nobody like me in Washington or any other legislature in this country. So here's what that senator is saying: I didn't mean it to apply to those cases that are already pending. But he knew what he was dealing with. The Bush administration, one of the most corrupt, dishonest administrations that ever occupied the White House and encumbered this country, they immediately, through the Justice Department, have moved to dismiss every pending case of every prisoner who has already filed actions in civilian courts. How can you trust a government like that? You cannot. But Americans are so conditioned and so frightened, they won't even speak against wrongful conduct by the government. When you talk about "the government" in a strict sense,...

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: ...you're not talking about an administration. Thank you, Mr. President.

SENATOR CUDABACK: There are no further...

SENATOR CHAMBERS: Was that my third time?

SENATOR CUDABACK: There are no further lights on.

SENATOR CHAMBERS: So I can close now?

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SENATOR CUDABACK: So you are recognized now to close, yes.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, fortunately, when it comes to this bill, enough people were looking at it so I do not believe that the interests of the public are being harmed. But suppose there were not people looking at it. It would have fallen to me to take the time to go through every page and word in this bill which, by the way, on Senator Schrock's amendment, I have done. But I would be lying if I said that I am confident that I understand every concept, precept provision in Senator Schrock's amendment. Some of the discussion that I had this morning was not just to deal with this bill and not just to take time. I'm able to use a bill which is not controversial to try to bring other things to light, or at least put them in the record--the kind of work we as a Legislature ought to be doing; the concern we should have, especially when you have a bill drafted by lawyers. Lawyers are interested in the welfare of their clients. The lawyers who drafted this bill do not have the public or the ratepayers as their client. The client of the lawyers who work on a bill like this is OPPD. The public hopes that OPPD's board and the administrators and others who are to carry out the will, as expressed by the board, will do the right thing. When have the public been able to completely trust any bureaucracy to do the right thing? When there are a lot of people in an association or organization, some will have ability; others won't. Some will be devoted to doing their job in the proper way; others won't. When we're dealing with what Senator Bourne described as projects totalling hundreds of millions of dollars, perhaps, somebody has to watch the watchers. In this case, you could say that the board of OPPD constitutes the watchers. The Legislature must watch them. OPPD's reach, I think, goes beyond the city limits of Omaha. Even if that reach doesn't, whenever something impacts a large number of the citizens of this state, the Legislature should take an interest. I take an interest in a lot of things that don't impact my district at all, and many times my interest puts me on a collision course with what is being presented. But imagine for a moment, if you will, if every senator took as seriously as I do all of the things that we deal with. You know who's been on this floor every single day, dealing learnedly and well with every issue that has come

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before us? With all due modesty, the one who is speaking. And I don't get up here and just ramble. I know what I'm talking about on these bills. And in many instances, I know more about the bill than the one whose name is on it as the introducer. I take seriously what it is that we do. Sometimes Legislatures blunder through lack of knowledge...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...and sometimes through inattention, other times just sheer negligence compounded by laziness. Why do people even want to be in the Legislature? This is what we're supposed to be doing. Why do you even want to be here? A former senator said people want it so they can put it on their resume. Dealing with subjects that relate, literally in some cases, to life or death, the rights of parents to their children, even with this one city, one school district, we should be interested in the type of education that the children are going to receive.

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President, and I will withdraw that proposal that's on the desk.

SENATOR CUDABACK: FA353 is withdrawn.

CLERK: Mr. President, the next amendment I have is by Senator Chambers. Senator Chambers would move to amend by striking Section 4. (FA354, Legislative Journal page 412.)

SENATOR CUDABACK: Senator Chambers, to open on your amendment to AM1864.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, this amendment would move to strike Section 4. By the way, so that Mr. Richards, whom I have lauded this morning, can breathe easy, I'm not going to carry this bill beyond our recess so that we have to take it up tomorrow. This yellow sheet is the barrel. There are many fish in this barrel, and I'm looking at one that comes up after this bill. (Laugh)

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There are more things that I want to say on this bill, though. I'm not going to interrogate people for the purpose of embarrassing anybody today, but the reason I was asking Senator Brashear questions was because I wasn't certain what some of these words mean that are in this laundry list and I would like to know. You all might be surprised at the kind of calls that I get from people all over the state. They actually think that I know everything. They think that I've read every bill at the time they call me. I have to let them know that I cannot read every bill in advance, but when it gets before us on the floor, if it's of any consequence I do try to read it, understand it, and I will offer amendments or even try to kill it, if I think it's bad. I will support it and try to improve it if I think it's good. Much work was done on this bill last session and I cannot, frankly, tell you there's anything in it that should not be in it, or anything should be added to it that is not in it already. That's not to say it's a perfect bill. I don't think, when you're dealing with something like this, that you can get a perfect bill. For example, beginning in line 7 on page 7: "Within ten business days after service of the petition for judicial review upon the public entity, the secretary or other duly designated officer of the public entity shall prepare and file with the Clerk of the Supreme Court, at the public entity's expense, the record of all documents submitted to and all oral and written comments made to the governing body in connection with the authorizing resolution." Now, if there is to be a submission to the clerk, the record of all documents submitted to and all oral and written comments, if it says "and written comments," does that mean the oral comments when they're submitted to the court must be submitted orally? And if they're written, then why do you say oral comments and written comments? I didn't write this so I don't know, but there's somebody who knows what this means. And I presume, when anything is filed with the Supreme Court, the lawyer is going to know enough to comply with Supreme Court rules. And if, because of the language in this statute, there is the use of the word "oral" when it comes to filing these various comments, if that does not comport with the Supreme Court's rules...I'd like to ask Senator Brashear a question so he can get a little enlightenment on this to show you something that I don't understand, and I just picked that out at random. Senator Brashear, I'd like to ask a

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question, if you will.

SENATOR CUDABACK: Senator Brashear, would you yield to a question from Senator Chambers?

SPEAKER BRASHEAR: Yes, Mr. President, I will.

SENATOR CHAMBERS: Senator Brashear, I had read a rather lengthy, what to me is a convoluted, sentence, but it has in it information needed. It's on page 7, line 7, but you don't have to go through the sentence. What I'm going to ask you this is. If a statute sets out a process for filing something with the court, and what is being set forth in the statute disagrees with existing Supreme Court rules, which prevail, the statute enacted by the Legislature or the rule adopted by the Nebraska Supreme Court, if you know?

SPEAKER BRASHEAR: The statute adopted by the Legislature would govern over the rule promulgated by the court, provided that there's not some higher authority that invalidates the statute.

SENATOR CHAMBERS: And that it does not violate the principle of separation of powers.

SPEAKER BRASHEAR: Powers, yes.

SENATOR CHAMBERS: But ordinarily, if it's a routine matter, then the statute would prevail.

SPEAKER BRASHEAR: Yes.

SENATOR CHAMBERS: Okay. That was my feeling, too. What I was going through, and I'm not going to ask you any more, is that this bill has a lot in it that I really could not explain. I could give my opinion about what it means, but I couldn't tell anybody to rely on that if they were going to take some kind of action or other of a legal nature. But that is why lawyers are hired. Let me tell you another reason I went through all of these words in subsection (3) on page 1. I can see costs stacking up that go beyond the favorable bond rating, and the favorable interest rates based on that, when you look at all

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these other costs. The cost of...cost related to issuing and servicing of the bonds, that cost would include, but not be limited to, servicing fees. I don't know what those are. I have an idea what they could include. I'd like to ask Senator Brashear a question.

SENATOR CUDABACK: Senator Brashear.

SENATOR CHAMBERS: Senator Brashear, there is nothing in the bill that limits the amount of these fees, that I've been able to detect, or the amount of expense associated with any bond insurance. Have you found anything in the bill that would put a cap on any of these fees?

SPEAKER BRASHEAR: Senator Chambers, there's nothing specifically in the bill, but may I comment beyond that?

SENATOR CHAMBERS: I wish you would.

SPEAKER BRASHEAR: They would be capped by a whole...a whole body of law and the reality of the marketplace. In other words, there's competition to provide these things, there's the fiduciary duty of the officers and directors in issuing them, so there are many factors that will limit and, in fact, make all these fees competitive.

SENATOR CHAMBERS: But, Senator Brashear, despite what may be in the law, we know that there are people who don't comply with that, as evidenced by these charges brought against these various CEOs who preside over companies or presided over companies which, up until that time, were considered respectable, reliable and so forth. When this fellow Howard Stern joined this SIRIUS radio, S-I-R-I-U-S, network, it was announced that he was going to be given a lot of stock in this company, and some other things were said that caused that, the price of that stock, to skyrocket. And the people who were putting this network together had to pay a huge fine because what they did had something to do with the notion of insider trading or manipulating the market, and that's not because the law was not there to prevent this, but because people were not complying with the law. I saw the other day where a

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nun was fired because...by the archdiocese because there may be some financial irregularities. So an irregularity exists because there is a law or rule which was not complied with. So in placing the best possible construction on what we're dealing with here and presuming that everybody is going to be more or less honest, you were saying...well, let me ask it as a question now. Could these fees, under the existing rules and governing principles, reach a level where the benefits from the high bond rating...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...could be lost?

SPEAKER BRASHEAR: No, I don't...I don't believe so, Senator Chambers, and this is my opinion, because what you're saying is true, anybody can violate the rules, the regulations and the realities of the marketplace, but by and large, as you know, those things are either...those violations are either punishable or actionable at civil law. That's what we see happening all over this country with regard to the recent corporate scandals. People are either being punished and/or sued.

SENATOR CHAMBERS: So this area where there might be a question, because, remember, I'm for the bill, you are convinced that these fees, although there is a relatively long laundry list, will not add up to a significant cost in this entire process that we're talking about. And by "significant," I mean it would cut...

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: ...into the benefits that would otherwise accrue.

SPEAKER BRASHEAR: I do believe that.

SENATOR CHAMBERS: Was that my third time?

SENATOR CUDABACK: You're opening, Senator Chambers,...

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SENATOR CHAMBERS: Oh.

SENATOR CUDABACK: ...on your FA354. You may continue.

SENATOR CHAMBERS: Thank you. Members of the Legislature, I know some questions that I'm going to be asked by people, not just in my district, when they...if they see any report on a bill such as this, where there will be a notation on their bill of a cost related to one of these mandated projects: Why are they going to have to pay more on their bill for something like this that the Legislature did, like they load up different things on a phone bill? I'd like to ask Senator Brashear a question.

SENATOR CUDABACK: Senator Brashear.

SPEAKER BRASHEAR: Yes, Mr. President.

SENATOR CHAMBERS: Senator Brashear, you're fairly familiar with the mechanics of this bill, correct, since I have you on your feet?

SPEAKER BRASHEAR: I guess I'd impeach everything I've said if I said, no, not really, but I think I've learned something during our colloquy about the bill.

SENATOR CHAMBERS: Okay. And even other than what we "colloquized" about, wasn't it stated that there will be a notion on the bill that a certain amount is there because of this mandated project? And if that's incorrect, I would ask Senator Schrock to correct us, and he's coming to his mika.

SPEAKER BRASHEAR: I have an indication that that...you are correct.

SENATOR CHAMBERS: Okay. So the only way a ratepayer would be aware that the listing of this additional cost did not increase the amount being paid over the previous bill is to look at the previous bill and look at the total amount being paid this month. That's the only way that person would really know.

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SPEAKER BRASHEAR: That's correct.

SENATOR CHAMBERS: And this one I'm going to ask Senator Schrock. Senator Schrock, is it possible that this bill could lead to a person paying more than currently is paid?

SENATOR CUDABACK: Senator Schrock, would you yield?

SENATOR SCHROCK: Yes, it's possible they would pay more, but I think they would be paying more anyway because there it's a mandate they're going to have to do something and so...but, in the long run, it should save some money so they should pay less. But they're going to pay more...

SENATOR CHAMBERS: So let me ask you...

SENATOR SCHROCK: ...than they would pay...

SENATOR CHAMBERS: ...why is...

SENATOR SCHROCK: ...if the project hadn't been done.

SENATOR CHAMBERS: Okay. I'm not objecting, but why is it necessary to put on the bill what this particular piece of change is going for?

SENATOR SCHROCK: My understanding, Senator Chambers, that it takes a separate line of credit, separate security, so it would give it a priority status, and...

SENATOR CHAMBERS: And that wouldn't be the case if it were not listed on the bill in that manner?

SENATOR SCHROCK: I think that's what the bond raters require.

SENATOR CHAMBERS: Raters, r-a-t-e-r-s, or raiders, r-a-i-d-e-r-s?

SENATOR SCHROCK: Well, you know, I'm even hesitant to say the word nuclear, so I'm not sure, but you interpret that like you...

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SENATOR CHAMBERS: (Laugh) Okay. That's all I will ask you, Senator Schrock. Members of the Legislature, as I understand this, and I'm not going to go through each provision of Section 4, which my amendment deals with, OPPD is facing requirements by the federal government to do certain things because it's a public utility. OPPD is going to be required to do that through the expenditure of money, which will not be provided by the federal government. The government knows that these entities have ways of raising money. In order to get the money to pay these...for these types of projects, OPPD will issue some bonds. We have been told that if there's a dedicated source or earmarked amount of money someplace that cannot be used for any other purpose than the handling of these bonds and all the...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...expenses associated with them, OPPD will get a high bond rating and servicing the debt will cost less for OPPD. And because of that high bond rating, there will be less of a cost to OPPD for the credit that it's being extended. By that saving, the customer ultimately will be spared paying an amount which they would have to pay if the high bond rating wasn't there. It's projected, from what I understand, that those savings will offset any amount that will appear as that special assessment, if you want to call it that for ease of reference, that puts money into that dedicated fund.

SENATOR CUDABACK: Time, Senator Chambers. You may continue, and this will be your third time.

SENATOR CHAMBERS: That brings me to a question. Right. Senator Schrock, I'm going to ask you this one. First of all, has what I stated been basically correct?

SENATOR CUDABACK: Senator Schrock.

SENATOR SCHROCK: You've been right on target this morning, Senator Chambers.

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SENATOR CHAMBERS: Now, when we get to page 2, in line 4, this item is contained in financing costs: "The funding of one or more reserve accounts related to mandated project bonds." Would these reserve accounts be distinct from that dedicated basic amount of money that will be derived from that special amount paid and noted on each retpayer's monthly bill? Are these accounts different from that?

SENATOR SCHROCK: Senator Chambers, I better not say with any certainty on that one.

SENATOR CHAMBERS: Would you...would you be offended if I'd ask Senator Brashear to help us out?

SENATOR SCHROCK: No, because I'd rather...I'd rather not guess.

SENATOR CHAMBERS: Okay.

SENATOR CUDABACK: Senator Brashear, would you yield?

SENATOR CHAMBERS: Senator Brashear, what I'm interested in is the language found in lines 4 and 5 on page 2, and it says the following as included in the costs of funding these mandated projects: "The funding of one or more reserve accounts related to mandated project bonds." Let me ask a question. Does that envision...I'm trying to give the construction that will make the bill work. Does that envision more than one project going on simultaneously? Bonds were issued for each one of those projects and the reserve accounts mentioned would be one account for each of those respective projects, or just what does it mean? Because I don't know that what I'm saying is correct at all.

SPEAKER BRASHEAR: I'm dealing with the language...the provisions of the language and the construction of it and not with the specific facts, which I don't know.

SENATOR CHAMBERS: Right.

SPEAKER BRASHEAR: But as I read that, as I read it in pari materia, so it makes sense altogether, yes, it could be

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one or more projects and, yes, it would include the reserve account or accounts. That's what I'm uncertain of, whether you can have more than one reserve account per issuance. So it would include the reserve account or accounts for each of the projects and those would all be computed as, go back to Section 3, financing costs, so they are included and permitted and allowed subject to all the other controls.

SENATOR CHAMBERS: Right. Now that we have a general idea what it could mean, if it could mean more than one account associated with one project, why would that be and how would that be justified under the bill?

SPEAKER BRASHEAR: I am reliably informed that I can tell you that there is one reserve account for one project, so that's what it means; so that further adds to the interpretation and construction, that we're talking multiple projects and that's how you get into multiple reserve accounts.

SENATOR CHAMBERS: But now, being the nitpicky person that I am when it comes to drafting legislation, and not wanting to leave anything to interpretation by the court if we can avoid it, we could write language that would clearly state what you and I are talking about...

SENATOR CUDABACK: One minute, Senator Chambers.

SENATOR CHAMBERS: ...so there wouldn't be any doubt, couldn't we? Make it clear that...

SPEAKER BRASHEAR: Yes, we could, and no one should have any objection to that.

SENATOR CHAMBERS: Okay. And I'm not going to try to do it here because we can do that at a later stage. But this is to let people know that, as I read this bill, I actually see where some changes could be made, but I don't even want to offer those kind of amendments now. I'll talk to Senator Schrock, you and others who have an interest, including Senator Beutler. Because my understanding may not be correct, to offer an amendment might catch others by surprise who also may not be sure that that's

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needed. Maybe the people with OPPD could show us why this language is constructed as it is, and if they have a rational basis and it will not lead to the confusion that I think it can, or the ambiguity, then I'd leave it untouched. But right now, it's ambiguous to me and I wanted to be sure that I haven't been looking at this so long that I'm seeing something...

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: ...which is not there. Thank you, Mr. President.

SENATOR CUDABACK: Any further speakers on FA354? Seeing none, Senator Chambers, you're recognized to close.

SENATOR CHAMBERS: Thank you, Mr. President. And I think I have up there pending a motion to indefinitely postpone. That will be my last motion that I will take this morning, because I think with that I'll be able to wrap up what I want to say on this bill, and I will have taken the time that I wanted. But the time that I've taken this morning was designed, from my position, to show that there are some things in this bill I see which might need changing, and when I offer those changes people can know that they're not just to delay the bill or to hurt the bill in any way. I think it is basically a good bill. I could be lulled into a sense of complacency, almost, if every bill we had, had been put through a process that resulted in what we have here--not perfect, but where the basic ideas and the big issues have been dealt with thoughtfully, carefully, and the parts of the bill do interconnect. They do not contradict each other, at least on their face. You have to read it very carefully to see something that might need work, and that should be how we read every bill. So my going through the bill in this way is not designed to disparage the work that other people have done, and I had even talked about it last year. But again, understanding is the greatest thing in the world, and the only way to get it, when you don't have it, is to go to those who do have it. I was kind of interested in Senator Bourne's participation this morning, because I have not seen him so passionate about anything on the floor as he was about OPPD. Now, I do know that there are some programs going on under the

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auspices of OPPD and others with whom they're working that Senator Bourne is privy to. When he simply stands on the floor and makes laudatory comments about OPPD, somebody might look at him and say, is this Abramoff Junior in operation here? I assure you, it's not. Somebody is going to give Senator Bourne a thousand dollars, let alone hundreds of thousands of dollars, to say what he said about OPPD? No. You don't bribe members of the Nebraska Legislature with hundreds of dollars. A neck bone sandwich, right, or a meat loaf sandwich and a chicken dinner, and they are so grateful, they feel obligated, they got to do what the lobbyist wants. So why is a lobbyist going to spend more money than is necessary? But really, I'm not suggesting anybody is corrupt. The point I wanted to make, and I'm not going to go into them, Senator Bourne is aware of some programs that OPPD is involved in that really are benefiting people who don't have a lot of money, who need assistance, and whose houses may be firetraps, so he neglected to lay out the facts that provide the foundation for his laudatory remarks. But even with those programs, I think he went a little over the top in praising OPPD. I'd like to ask Senator Bourne a question, if I may.

SENATOR CUDABACK: Senator Bourne, would you yield?

SENATOR BOURNE: Certainly.

SENATOR CHAMBERS: Senator Bourne, would you repeat what you said about OPPD earlier (laugh), if you remember?

SENATOR BOURNE: Which comment? I made...I made numerous comments. Which one were you referring to, Senator Chambers?

SENATOR CHAMBERS: Well, that...the second one.

SENATOR BOURNE: (Laugh) That it's a good organization?

SENATOR CHAMBERS: That wasn't all you said. You don't remember what you said?

SENATOR CUDABACK: One minute.

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SENATOR CHAMBERS: You were just gushing and not remembering.

SENATOR BOURNE: (Laugh) No, I'll repeat what you and I discussed privately, if you'd like me to do that.

SENATOR CHAMBERS: No, you don't have to do that, but have I misrepresented anything in pointing out that there are programs and projects you're aware of that OPPD is doing which are really commendable?

SENATOR BOURNE: Absolutely, and that's part of my...you know, quite frankly, there's a lot of organizations and entities that really don't do much to contribute to the public good, and OPPD is an exception to that. And that's kind of...if I was a little too effusive I apologize, but in this day and age there's very few people that are actually...or very few entities that are actually doing things positive for the community, and in my mind OPPD is one that is absolutely doing that and I think they should be commended.

SENATOR CHAMBERS: Here's why I'm taking this approach, Senator Bourne, because I wasn't aware of some of the things you mention. Would you feel uncomfortable in just mentioning some of the things, so that people will have an idea of what you're talking about? And maybe it will give a notion to some of these other entities of what they ought to be doing.

SENATOR BOURNE: Absolutely. Thank you for the opportunity.

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: You say what?

SENATOR CUDABACK: I said time.

SENATOR CHAMBERS: Well, next time around. Oh, okay.

SENATOR CUDABACK: You were closing. What did you wish to do, Senator Chambers?

SENATOR CHAMBERS: I'd like to let Senator Bourne make his

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statement. Well, you asked what I wished, and ask and it shall be granted. Is that what you're telling me?

SENATOR CUDABACK: I'm sorry, but you were closing.

SENATOR CHAMBERS: So what were you asking me that I might be able to do if I want to?

SENATOR CUDABACK: Do you want to take a vote on this particular issue?

SENATOR CHAMBERS: Oh, okay. No, I will withdraw that.

SENATOR CUDABACK: So ordered.

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR CUDABACK: It is withdrawn.

SENATOR CHAMBERS: Okay.

SENATOR CUDABACK: Mr. Clerk, please. Senator Schrock, on your amendment, AM1864. Further discussion?

SENATOR SCHROCK: Do you want closing remarks?

SENATOR CUDABACK: We're discussing the Schrock amendment, AM1864. And there is one light on. Senator Chambers.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I had spoke in somewhat mysterious terms about projects that OPPD is involved in, and Senator Bourne had brought some of these to my attention, and I, frankly, was pleased to know that. I hadn't been aware that OPPD was doing these things. I'm not aware that any other entity similar to OPPD is doing such things. And I had asked if he'd be willing to say on the mike, for the record, some of these things that he is aware of, and he had agreed. My time ran out, so I'm going to renew my request of him, if he is still amenable to sharing with us that information. Senator Bourne, are you willing?

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SENATOR CUDABACK: Senator Bourne.

SENATOR BOURNE: Am. Thank you, Senator Chambers, for the opportunity. Some time ago there was a tragic house fire in Omaha and the reason that the fire happened was these individuals in the house were using candles and other means to have light and keep warm. The power had been turned off at that house because there was problems with the electrical panel, meaning it was unsafe to supply electricity to the house, and there was a tragic situation that happened there. I participated in a series of meetings this past summer initiated by the Omaha Public Power District, and they're...and they brought community leaders, activists, just all sorts of individuals, Salvation Army, just all sorts of groups that might provide assistance to people to try to brainstorm and figure out how to resolve a situation like this. They can't restore the power because the home is unsafe, so what do you do? And what OPPD did was they entered into an agreement with tradesmen and women that, even if it's a rental house, they will go out, these electricians and other type of trades individuals, they will repair what needs to be repaired so that OPPD can restore the power so a situation like that doesn't happen again. And earlier, when I praised OPPD, my point is, is that it seems to me there are very few entities that do progressive things like that and I think they should be commended and acknowledged, and even though they...I don't think that ever made the newspaper, they didn't make an issue out of it. But they were proactive in how to resolve this type of situation. They worked collaboratively with the community. They came up with a solution to solve the problem. They'll come in there, they'll repair, even if they're rental houses, so you could argue that the landlords are getting a benefit. But ultimately, and OPPD recognized this, the tenant, the individual who couldn't otherwise pay for those repairs, benefits; makes a good situation out of a bad one. And they should be commended for it.

SENATOR CUDABACK: Senator Chambers, 2 minutes left.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'm glad that Senator Bourne was willing to give that

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information and let those people, who participate in putting programs together such as this, know that notice is taken of it and that there's appreciation for those things. I'm most appreciative when I see people, who cannot help themselves at all, extended a helping hand. It's easy for a bank to lend a person a dime if the person has eleven cents as collateral. But when you have somebody who is flat-out broke, I don't say you're going to give that person \$1,000 loan or anything else, but if the person is hungry you can give them some food. If they have no shelter, even if it's temporary you can give them someplace to go to keep the rain, wind, and snow off them. And if they have children, you can offer something that will give a sense of security, some warmth, some food and other sustenance. But with all of the discussion that goes on in this society,...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...I don't just mean Lincoln, Omaha, and Nebraska, but throughout this country, about such things, they are recognized more in their breach than in their actualization. This country has so much material wealth, nobody should be hungry who doesn't want to be, and people who are on diets sometimes want to be. That's what I'm getting to. I don't think anybody wants to go to bed hungry because there is no access to food. So I often think about what kind of country this could be if all of the fine words uttered were principles that would be acted on. They could have the best education system in the world. Everybody could have a decent place to live. Everybody could have a source of income paying a living wage.

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: But too much is concentrated in the hands of too few. Do I have one more time I can speak?

SENATOR CUDABACK: You have...I think you have two more times, Senator Chambers.

SENATOR CHAMBERS: Thank you. I'm just going to talk about some other things that I want to talk about this morning. Since I'm

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not opposed to the bill, I don't have any more motions I'm going to put on the bill. I'm not going to offer any amendments. I've exacted enough time from this bill, especially since it is a good bill. If it was one that was trifling, maybe I would just carry it on and on, so I don't want anybody to get the impression that this sets a precedent, except where a very good bill that does serve the public interest is concerned. I'm going to take my time on it. See, as nice a guy as I am, I still have to pay taxes. When I go to get a candy bar, I think you pay tax on candy. I don't even look. Oh, you don't? Okay, well, I buy something at the grocery store. Do you pay tax on soap? Okay. Okay, I pay tax on soap, and I use it. I love soap, not to eat, but if cleanliness is next to godliness, I'll go to heaven on the basis of hygiene alone. But the point I'm trying to get to is this. As you see economic policies laid out by governments which serve the ones who need the help the least and will continue to draw out of those who can least afford it in order to give more to those who already have, something is drastically wrong and immoral. It's ironic that at a time when there is more "yow-yow" about religion, fundamentalism, George Bush pretending to be a so-called born-again "Chrishian," you have an increasing gap between the rich and the poor. You have less medical care available for those who are sick and need it. You have more elderly people and poor people on fixed incomes and no income who may freeze this winter, in the richest country in the world, while they're talking more about religion than at any other time in the history of this country. They're very offended that somebody wants to say happy holidays instead of merry Christmas, but while going through that argument they can look out their window and see poor people making it down a cold street in some thin jacket or something else to stave off the chill of the wind and not feel...not feel a corpuscle, a grain, of compassion. And America is diminishing and deteriorating. America cannot compete in the world with any nation at any level except when it comes to kill power. That's where America outstrips everybody. When it comes to compassion, no. I've even read where there are hospitals that do not want to accept people if they don't have insurance. Can you imagine that? A country that supposedly has made such great advances in medicine, but those advances are to provide benefits only for the wealthy, and the ones who need it the most have no place to

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go. Then, at Christmastime, they want to make little children cry because Mary, Joseph and a baby were told there is no room in the inn. So at Christmastime they talk about that, but they don't look at all the Marys, all the Josephs, all the little babies who are turned away from the inn, all these big churches. That's why I talk about their concern with fetuses but not human beings. A dead fetus is found somewhere in Iowa and people are up in arms.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: The body of a child may be found and it's mentioned in a small article, but there are not all the churches and all these other people saying, this is why we need legislation for fetuses. And people need to look at the realities in this country, which they will not do. And all I can do is talk about it. I don't have enough money to provide food, shelter, warmth for all of these people who need it, to make sure that they can get medical or healthcare, but I will tell in my last time speaking on this bill a thing or two that I've tried to do. Thank you.

SENATOR CUDABACK: Thank you, Senator Chambers. (Visitors introduced.) Senator Chambers, and this will be your third time.

SENATOR CHAMBERS: Thank you. Mr. President, when you place what is called a good deed, you're not to talk about it. I'm not going to talk about all of the things that I do, just as nobody should, but there's something I'm going to mention in connection with what I'm talking about here. I probably am the poorest person on this floor. Senator Stuthman is shaking his head. For me, a spartan existence constitutes extravagant living. Senator Stuthman can't top that. People will come to my office asking for money. If I'm convinced that somebody really needs something for something, I will help. I've helped students who got stranded in Omaha...I meant, in Lincoln get money to go on home. Other people will come to me with a song and a dance, and I let them tell me what they're telling me. I look naive and I tell them, I say, man, you tell me that you're hungry; I'm not going to give you any money, but I've got some

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food here and I'll feed you as much of it as you want to eat to satisfy your hunger, but I'm not going to give you money because I smell something on your breath that makes me think you're going to take this and go drink it up; now, if you want to eat, you can eat right here, and when it comes to something to drink, you can have your choice between water, soda pop, coffee, nothing stronger. And some will say, well, that's all right; and others are hungry. I know that there are people out there who have needs because I come in contact with them, as we all do if we would see what passes in front of our eyes. You know what I've had happen to me? I speak to anybody who will make eye contact with me. If they don't want to speak, fine. How does it hurt me to say, how you doing, and then if they don't want to speak and I see them next time, I won't waste their time or mine. But the first time around, I will speak. I've seen people sitting out in front of this building and they look like they might be down on their luck, but they're a human being, as far as I'm concerned, so I speak. And someone will stop me and want to go on and on about how pleased they are that somebody would speak to them. They have so little and are treated so poorly that somebody merely speaking, as another human being, means something to them. Somebody is that unfortunate. And we come in here day after day and give hundreds of thousands of dollars and millions to these big companies, and don't think about the poor. All of this talk about fetuses and nothing about the children who are here and have needs. I saw an article where in 2012, or whatever the year was, the amount in millions of dollars that will have to be paid to these ethanol speculators is going to be astronomical. And Nebraska, as I've stated, has an increasingly aging population. It is not growing numerically, so you're going to have fewer and fewer wage earners paying more and more taxes to retire the debts that are being loaded on them by people in this Legislature who have no concern for the future or the children yet unborn. If Senator Foley and his ilk were not concerned only about fetuses in the womb but what they're going to be confronted with when they come into this world as full-fledged human beings,...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...we wouldn't be voting so much to give all

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this money away to these big companies that will load debt on these future generations and nobody can say how those debts are to be paid. But since we won't be here, what difference does it make? Well, I won't be here, but I'm here now and I'm conscious now of what those problems will mean to other people. So while I am here, while I am conscious, I'm going to do what my conscience tells me I ought to be doing, and I will say it and say it again. I'm more concerned about children than I am fetuses; I'm more concerned about the woman than I am a fetus; and when a woman is pregnant, to me, there is one person there--a woman who is a mother to be--but there are not two people there. And I'm glad the Supreme Court did not follow what this Legislature does on abortion bills, where they say they're concerned only for the fetus, and if the woman's health is at serious risk it doesn't make any difference. Fortunately, that old U.S. Supreme Court...

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: ...has more going for it than the members of this Legislature. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Further discussion on the Schrock amendment? Seeing none, Senator Schrock, you're recognized to close. Senator Schrock does not wish to close. The question before the body is adoption of the Schrock amendment, AM1864, to LB 548. All in favor vote aye; all opposed vote nay. Voting on adoption of the Schrock amendment. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 37 ayes, 0 nays on adoption of the Schrock amendment, Mr. President.

SENATOR CUDABACK: The Schrock amendment has been adopted.

CLERK: Mr. President, Senator Chambers, I now have your motion to indefinitely postpone.

SENATOR CUDABACK: Senator Chambers, you're recognized to open.

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887, 957
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SENATOR CHAMBERS: Mr. President, I will pull the motion.

SENATOR CUDABACK: It is withdrawn.

CLERK: I have nothing further on the bill, Mr. President.

SENATOR CUDABACK: Discussion on LB 548? There are no lights on. Senator Flood, for a motion.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 548.

CLERK: I don't have E & Rs, Senator.

SENATOR FLOOD: Oh. I move the advancement of LB 548 to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion, advance LB 548, E & R for engrossing. All in favor say aye. Opposed, nay. They are adopted.

SPEAKER BRASHEAR PRESIDING

SPEAKER BRASHEAR: Members, while the Legislature is in session and capable of transacting business, I propose to sign and do now sign the following legislative resolutions: LR 263, LR 264, LR 265, LR 266, LR 267. Thank you.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Mr. Clerk.

CLERK: Mr. President, some items, if I may. Your Committee on Government, Military and Veterans Affairs reports LB 787 to General File with amendments. Your Committee on Revenue, chaired by Senator Landis, reports LB 887 to General File with committee amendments. Banking Committee has selected LB 875 as one of its committee priority bills. Senator Schimek, an amendment to LB 454; Senator Howard to LB 766. Name adds, Mr. President: Senator Redfield to LB 781; Senator McDonald, LB 841; Senator Schrock, LB 849; Senator Aguilar, LB 957;

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Senator Redfield, LB 1051; Senator Howard, LB 1087. That's all that I had, Mr. President. (Legislative Journal pages 413-414.)

SENATOR CUDABACK: We now go on to the next agenda item, General File. Mr. Clerk, LB 72.

CLERK: Mr. President, LB 72, a bill by Senator Stuhr. (Read title.) Introduced on January 6, et that time it was referred to the Government, Military and Veterans Affairs Committee. Bill was advanced to General File. I do have committee amendments pending, Mr. President. (AM0059, Legislative Journal page 345, First Session, 2005.)

SENATOR CUDABACK: Senator Stuhr, would you like to give us a quick review of LB 72?

SENATOR STUHR: Thank you, Mr. President and members of the body. LB 72 proposes the licensing and regulation of security guards by creating the Security Personnel Licensing Act. LB 72 was briefly discussed last year and since that time we have continued working with the industry to resolve any questions and also to add clarity to the bill. I have also included in the amendment that will be coming forth some of the concerns expressed by Senator Bourne at that time. Just also a word to mention that there were no opponents to the bill as...before the hearing. So thank you.

SENATOR CUDABACK: Senator Stuhr, being as a year has passed, you are afforded a ten-minute opening, if you care to use it.

SENATOR STUHR: Thank you, Mr. President. I will continue with my opening. To give you some history on this issue, LB 1063 was introduced in 2004 in regard to this issue, and it was evident at that time that the involvement of the industry was imperative to the writing of workable legislation. Many meetings were held with various groups and that are involved in the security guard industry, and before you, you now have LB 72 and the amendment that is a result of all of those meetings. The amendment that will be before us includes the committee amendment, and also provides some additional clarification to the bill. Just to refresh your memory, under this act a security officer is

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defined as an individual other than an employee of a federal, state, or local government, a political subdivision, or an individual appointed as a deputy state sheriff, whose primary duty is to perform a contract or proprietary security service, either full- or part-time. They may be armed or unarmed; in a uniform registered with and approved by the Secretary of State, or in plain clothes. A security officer does not include an employee whose sole duty is internal auditing or credit functions, a technician, or a monitor of electronic security systems or others not purporting to perform security services, such as bouncers, parking lot attendants, house-sitters, or event staff. And we did clarify that in our amendment that we will have before you. The Secretary of State's Office will administer the rules and regulations related to this legislation, and all of you should have before you a letter from the Secretary of State's Office stating their willingness to provide the administrative functions as outlined in the bill. The Secretary of State's Office will license applicants as security officers who meet the guidelines, the standards, the requirements and qualifications of the act. They will establish minimum guidelines for educating and training licensees under the act. They will enforce the act by reviewing and investigating complaints of violation, and establish conditions for reinstatement and renewal of licenses. Applicants must meet minimum guidelines to be licensed under this act, and such guidelines include that the applicant not have been convicted of unlawful conduct; not have been declared, by any court of competent jurisdiction, incompetent by reason of mental defect or disease; and not be currently suffering from habitual drunkenness or from drug addiction or dependence. Additionally, the applicant must be 18 years of age for a license, and 21 years of age for a security officer's firearms permit. Each applicant must also have a federal criminal history record checked through the Federal Bureau of Investigation. Applicants must also submit evidence of successfully completing an education and training program, as required by the Secretary of State. Another aspect of the legislation, it creates an advisory board made up of security professionals to help advise the Secretary of State's Office on the rules and regulations governing the act. I do believe that this legislation is very important for the safety of the public, as well as for the

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protection of the state. In these times of terror alerts and national security issues, it is important to know that all of those working in the security industry meet the basic standards of safety and professionalism. With that, I hope that we will continue our discussion on this bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. You heard the opening on LB 72. As stated by the Clerk, there are committee amendments by the Government, Military and Veterans Affairs Committee. Chairperson Schimek, you're recognized to open.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I rise to introduce the committee amendment, which makes four very specific changes. The first change would be on page 2 of the bill, and it actually provides that employees of political subdivisions or individuals appointed as deputy state sheriffs are not included in the definition of a security officer. The second change is on page 3, at the top of the page, and this amendment just...or this provision of the amendment just requires that security officers wear uniforms which are distinctive in appearance from that customarily worn by law enforcement agents. The third part of it clarifies who can be a trainer, and that's on page 5, and it talks about the fact that you have to be at least 18 years of age to train an applicant for a license, and 21 years of age to train an applicant. The final one, the final provision of the committee amendment, changes the provisions regarding the length of service that the initial committee members can have, and that's on the very last page, on page 8. It changes it so that two members are appointed for a term of one year, two members for a term of two years, and three for a term of three years. I have to say that Senator Stuhr and the people who will be licensed under this bill have really put a lot of time and effort into this bill. This bill has morphed again and again, and I think that what Senator Stuhr has put together on her final amendment is a good...is a good bill. I...she has incorporated the committee amendment into that amendment, so that once her amendment comes up, if we adopt it, it will essentially do away with the committee amendment, but incorporate everything in the committee amendment into that...into that larger amendment. So I would strongly compliment Senator Stuhr for all the work that she's

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done on this bill and I'm sure that, es always, she will be willing to listen to any comments or suggestions that people have. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Schimek. You've heard the opening on the committee amendments. Mr. Clerk, motion on the desk.

CLERK: Senator Stuhr would move to amend the committee amendments with AM1841. (Legislative Journal page 206.)

SENATOR CUDABACK: Senator Stuhr, to open on your amendment to the committee amendments.

SENATOR STUHR: Mr. President, I am requesting to withdrew AM0619.

CLERK: Senator, that's drafted to the bill, as opposed to the committee amendment.

SENATOR STUHR: Okay.

CLERK: So we'll...if you...you might want to defer until you've offered the amendment you want, I think.

SENATOR STUHR: All right. So I am addressing AM1841.

SENATOR CUDABACK: Correct.

SENATOR STUHR: Okay. All right. Thank you, Mr. President and members of the body. In your handout I have broken down the amendment so that you may follow along, and the fact that we have a number of definitions on pages 1 and 2 of the amendment, we have the licensing requirements, we do have the Secretary of State duties, we have the minimum standards to obtain the license, we have the funding mechanism on the bottom of page 6. Also included are the license renewals; the license issuing; the reciprocal agreements; the license expiration; the advisory committee, provisions for the advisory committee; also the penalty provisions; and the operative data. Also, in the packet of information you received a number of letters from the various

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groups that have worked on this bill for the last couple years. And I also want to say thank you to Senator Aguilar, because he actually started this discussion and introduced a previous bill, probably back in 19...2003, and then I introduced the following year, in 2004, and at that time, as I stated earlier, it was evident that we needed to work with the industry in order to work out all the provisions of this bill, and it was the first time that we actually sat around the table and brought all of the groups together. And, at times, we would have as many as 20 meetings, and I also thank the legal counsel from Government and Military Affairs (sic) who attended also most of those meetings. So we have worked in the last couple years, and I might just mention that some of the groups that met were the security alarm companies, the security equipment companies, security armored car companies, contract security companies, and proprietary security groups. And I also might state that Nebraska is just one of a handful of states that does not have any standards in regards to the private security industry, and they actually came forth and are asking for some standards and some guidelines to help to make their organization much more professional. So I applaud them for their...all of their work in coming forth and writing this bill. So I would certainly be happy to answer any questions and I believe it is an important bill for the protection of the citizens in this state. I think it's important to think that most people think that the security guards that are working in the state, that there are some standards, but there are not across the state. We are, as I said, one of the few states that does not have any regulations or statutes in regard to the private security industry, and it has become more of an issue, particularly since 9-11, that we look at this industry and, as I said, they were very willing to come forth. So thank you.

SENATOR CUDABACK: Thank you. You've heard the opening on AM1841 by Senator Stuhr. Open for discussion. Senator Beutler.

SENATOR BEUTLER: Senator Stuhr, we only have a few minutes left, but the bill looks so great and I might...I might indicate that I would direct this question to Senator Schimek as well. And I just want to pose the question, and I don't expect an answer from either one of you. We're going to stop here in a

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couple minutes. But as I read through it again, I got to thinking about the concealed carry bill and how your two different classifications--a security person who doesn't have a gun permit, and a security person who does have a gun permit--how does all that relate to the concealed carry bill, i.e., if you have a person that's not authorized to carry a gun under this bill, could they...could they still carry a gun under the concealed carry law? Could they carry a concealed weapon under the concealed carry law? And if you have somebody that has a gun permit under this law, can they carry concealed or not carry concealed? Just would like to know that we're together on both...on both pieces of legislation. So if you could look at that over the interim here, till tomorrow, I'd appreciate it. Thank you.

SENATOR CUDABACK: Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President, members. Would Senator Stuhr yield to a question or two, please?

SENATOR CUDABACK: Senator Stuhr, would you yield to a question from Senator Bourne?

SENATOR STUHR: Yes.

SENATOR BOURNE: Senator Stuhr, as I understand it, the amendment we're discussing, this AM1841, is a result of the work you've done over the interim.

SENATOR STUHR: Yes.

SENATOR BOURNE: Could...and it would replace the committee amendment from the Government, Military and Veterans Affairs Committee.

SENATOR STUHR: Right.

SENATOR BOURNE: Could you kind of go through and tell me what the differences are between your amendment and the committee amendment, just generally? Because, you know, in your opening you talked about why we needed this and all the effort that was

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put into it,...

SENATOR STUHR: Right.

SENATOR BOURNE: ...but we didn't really focus on what changes were made to the committee amendment or the underlying bill.

SENATOR STUHR: Actually, this amendment does include all of those provisions of the committee amendment, so I hope that...and Senator Schimek did go through those basic changes that were made. And then there were some additional, I would say, language smoothing, clarification of terms. I believe in one area you had a question last year about who should be exempt, and we did then include an exemption for bouncers, parking lot attendants, house-sitters, event staff. We also did make a clarification on the internal auditing or credit functions, a technician, a monitor of electrical...electronic security systems. That was one area that we added because of your concerns. And...oh, and also an appeals provision was added. Those were, you know, some of the specific, you know, changes that were made. Does that help...does that help answer your question?

SENATOR BOURNE: It does, Senator Stuhr. I do have a quick question about a few of the definitions in the bill.

SENATOR STUHR: Okay.

SENATOR BOURNE: And I want to commend you on the work that you've done regarding the background checks that these individuals have to go through and the fingerprinting. I think, you know, all too often in the industry these folks aren't adequately vetted before they're hired, so I think you've done a lot of good work in that regard. I do have a couple questions regarding definitions, but I don't think it's anything that's insurmountable. And on page 1, line 15 and 16, you define a security officer as someone other than an employee of a federal, state, local government, an employee of a political subdivision, or an individual appointed as a deputy state sheriff. Oftentimes off-duty police officers, deputies, things like that will act as security guards for a private firm. Is it your

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intent then to specifically not allow these law enforcement officers to perform those types of duties?

SENATOR STUHR: No, it isn't, Senator Bourne. They will certainly, and many of them do, work in a part-time position. They will, however, have to obtain a license...

SENATOR BOURNE: Okay.

SENATOR STUHR: ...a permit. Uh-huh.

SENATOR BOURNE: Just for clarity, as I read your definition, employees other...employees of a federal, state, local government, or an employee of a political subdivision, or an individual appointed as a deputy state sheriff would not have to obtain certification through the Secretary of State to act as a private security guard.

SENATOR STUHR: I believe that we are planning for them to...they will have already received the training that is required.

SENATOR BOURNE: Okay. So...

SENATOR STUHR: Uh-huh.

SENATOR BOURNE: ...so you're saying that they are able to perform off-duty activities as private...or as security guards, but do they have to go through the requirements set forth by this bill and, I assume, the rule and regs...

SENATOR CUDABACK: One minute.

SENATOR BOURNE: ...that are coming from the Secretary of State, or will they automatically be allowed to operate as security guards without going through that process, as prescribed by the bill and the Secretary of State?

SENATOR STUHR: Senator Bourne, they will have to show that they have the training that is going to be required in the bill. So if they can document that they have received that adequate

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training, they will be able to get...to receive a license then in their...in their part-time employment.

SENATOR BOURNE: Okay. So they...you're...what...you're both allowing them to perform as security guards and you're also saying that they have to go through the requirements set forth by the Secretary of State.

SENATOR STUHR: Yes, I believe that that is correct. I may have to visit with you.

SENATOR BOURNE: Okay. Okay.

SENATOR STUHR: Okay.

SENATOR BOURNE: And again, I appreciate the work you've done. That background checks are...

SENATOR CUDABACK: Time, Senator Bourne.

SENATOR BOURNE: ...absolutely essential and the other requirements in the bill. I think there's just a couple definitional issues.

SENATOR CUDABACK: Thank you, Senator Bourne. Mr. Clerk, items for the record, or messages, or motions?

CLERK: Mr. President, amendments to be printed to LB 693 by Senator Landis, and LB 75 by Senator Landis. I have confirmation reports from the Natural Resources Committee, as offered by Senator Schrock, as Chair. (Legislative Journal pages 414-416.)

Priority motion: Senator Smith would move to adjourn until Friday morning, January 20, at 9:00 a.m.

SENATOR CUDABACK: Heard the motion to adjourn, January 20, 9:00 a.m. All in favor say aye. Opposed, nay. We are adjourned.